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# Vol. I

## TRANSCRIPT OF RECORD

## Supreme Court of the United States

**OCTOBER TERM, 1938**

## No. 312

JOHN M. TAYLOR, OSCAR A. KENNEDY AND H. RUSSELL HASTINGS, AS THE INDEPENDENT COMMITTEE FOR THE PROTECTION OF THE HOLDERS OF PREFERRED STOCK OF DEEP ROCK OIL CORPORATION, PETITIONERS,

*vs.*

STANDARD GAS AND ELECTRIC COMPANY ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE TENTH CIRCUIT

**PETITION FOR CERTIORARI FILED AUGUST 30, 1938.**

**CERTIORARI GRANTED OCTOBER 10, 1938.**

**Volume I.**

# United States Circuit Court of Appeals

TENTH CIRCUIT.

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## No. 1545

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JOHN M. TAYLOR, OSCAR A. KENNEDY, H. RUSSEL HASTINGS, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Interveners, APPELLANTS,

vs.

STANDARD GAS AND ELECTRIC COMPANY, REORGANIZATION COMMITTEE OF DEEP ROCK OIL CORPORATION; H. N. GREIS, Trustee of Deep Rock Oil Corporation, and DEEP ROCK OIL CORPORATION, APPELLEES.

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APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OKLAHOMA.

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FILED FEBRUARY 26, 1937.

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Pleas and proceedings in the United States Circuit Court of Appeals for the Tenth Circuit, at the April Term, 1938, of said Court, before Honorable Orie L. Phillips, Honorable Sam G. Bratton and Honorable Robert L. Williams, Circuit Judges.

Be It Remembered that heretofore, to-wit: on the 29th day of June, 1937, a transcript of the record, pursuant to an appeal allowed by the District Court of the United States for the Northern District of Oklahoma, was filed in the office of the clerk of the United States Circuit Court of Appeals for the Tenth Circuit, in a certain cause wherein John M. Taylor et al. were appellants and Standard Gas and Electric Company et al. were appellees, which said transcript, as prepared and printed under the rules of the United States Circuit Court of Appeals for the Tenth Circuit, is in the words and figures following, to-wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE TENTH CIRCUIT.

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JOHN M. TAYLOR, OSCAR A. KENNEDY, H. RUSSEL HASTINGS, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Interveners, APPELLANTS,

against

STANDARD GAS AND ELECTRIC COMPANY, REORGANIZATION COMMITTEE OF DEEP ROCK OIL CORPORATION, H. N. GREIS, Trustee of Deep Rock Oil Corporation, and DEEP ROCK OIL CORPORATION, APPELLEES.

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Petition for Leave to Appeal from Orders Allowing Compromise of Claim and Confirming Amended Plan of Reorganization.

Filed Feb. 26, 1937.

To the Honorable Judges of the United States Circuit Court of Appeals for the Tenth Circuit:

Your petitioners, appellants, John M. Taylor, Oscar A. Kennedy and H. Russel Hastings, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Interveners in the above cause, conceiving themselves aggrieved by the following orders, and each of them and every part thereof, of the United States District Court for the Northern District of Oklahoma, being: (1) An order entered on December 22, 1936, entitled "Order Approving Compromise of Claim of Standard Gas and Electric Company in Accordance with Offer Made by Standard Gas and Electric Company, Dated November 7, 1936, and Adjudicating and Allowing said Claim Under the Terms and Subject to the Conditions of said Offer of Compromise", in which the claim of the Standard Gas and Electric Company was allowed as an unsecured claim in the sum of approximately $5,100,000.00, certified copy of which is attached as Exhibit A of the Petition for Leave to Appeal from said order allowing the compromise of the Standard claim filed in this cause with the clerk of this Honorable Court on January 19, 1937; (2) An order entered on the 22nd day of December, 1936, herein described as "Order Finally Approving and Confirming the

Amended Plan of Reorganization of the Debtor Corporation", certified copy of which is attached as Exhibit A of the Petition for Leave to Appeal from the order approving and confirming the amended plan of reorganization filed in this cause with the clerk of this Honorable Court on January 19, 1937; (3) An order entered on February 3, 1937, making the above orders of December 22, 1936, final and appealable, certified copy of which is attached hereto as Exhibit X hereof, file this, their petition, addressed to the discretion of this Honorable Court, for leave to appeal in matters of law from all of said orders of the District Court, and each of them and every part thereof.

Your petitioners refer to the Assignment of Errors filed by them simultaneously herewith, and attached hereto as Exhibit Y hereof, setting forth the errors made by the court below, and giving the grounds for this appeal, and petitioners make said Assignment of Errors a part hereof.

In support of this petition, petitioners show unto this Honorable Court the following facts:

1. That Deep Rock Oil Corporation, debtor corporation, is a Delaware corporation, engaged in the producing, refining and selling of petroleum products and their derivatives, and that its principal place of business is at Tulsa, Oklahoma. Debtor corporation first went into Federal Equity receivership on March 1, 1933, and on June 19, 1934, debtor's affairs came under the jurisdiction of said court in Bankruptcy by virtue of the provisions of Section 77 (b) of the Bankruptcy Act of the United States, as amended.

2. The capital structure of the debtor corporation consists of:

(a) A $10,000,000.00 note issue with interest in default since March 1, 1933. These notes are held by the public and widely distributed throughout the United States.

(b) The claim, if any, of the Standard Gas and Electric Company, the parent company, against the debtor corporation, its subsidiary, in the purported principal amount of $9,342,642.37. This claim is based upon an open account kept between Standard Gas and Electric Company and the debtor corporation for the period from June 1, 1919, to February 28, 1933, involving thousands of entries of credits and debits, totalling $52,529,709.34 of debits and $43,187,066.97 of credits, leaving a net debit of $9,342,642.37.

(c) A $5,000,000.00 issue of 7% cumulative preferred stock, of which $100,000.00 is owned by the Standard Gas and Electric Company, and the balance of $4,900,000.00 is held by the public, and the holdings are widely scattered throughout the United States. There are unpaid accumulated dividends on the preferred stock which have accrued since January 1, 1931, in the amount of $42.00 per share, for a total of approximately $2,000,000.00 making a total of $7,000,000.00 due the holders of preferred stock of the debtor corporation.

(d) Common stock of the debtor corporation consisting of 599,475 shares, of which approximately 98% is owned by the parent company, Standard Gas and Electric Company.

3. Standard Gas and Electric Company is one of the large utility holding companies of this country whose financial statement show ownership of public utilities throughout the United States, having a combined asset value well in excess of one billion dollars. Standard is in turn controlled by H. M. Byllesby and Company, which is the top holding company. Standard also owns all of the stock of Byllesby Engineering and Management Company. Standard's first and only venture outside of the utility field appears to be its acquisition of the stock of Shaffer Oil and Refining Company in 1921, whose name was thereafter changed to Deep Rock Oil Corporation, the debtor corporation. Throughout the period of the ownership by Standard of practically all of the common stock of the debtor corporation, the chief officers of the debtor corporation were also the chief officers of Standard, and these same persons were also the chief officers of H. M. Byllesby and Company and Byllesby Engineering and Management Company. Throughout the period in question, the directors of the debtor corporation were almost without exception officers, employees or directors of Standard Gas and Electric Company.

From the inception of the receivership of the debtor corporation, controversy has been pending on the validity and propriety of the claim of the Standard Gas and Electric Company. The hearing on the claim of the Standard Gas and Electric Company was referred by the court to a Special Master shortly after the inception of the receivership of the debtor corporation, and the hearings and proceedings continued upon the substitution of the instant proceedings for reorganization of the debtor corporation. For the period of

approximately two years, proofs were taken from time to time, which proofs were almost entirely of an uncontradicted nature. It appeared from the uncontradicted proofs that Standard had operated its subsidiary, the debtor corporation, as its own instrumentality or department and without any regard for separate interests of the debtor corporation or the public, who held its securities. It was also uncontradicted that the charges included in this open account were put in entirely at the direction of Standard, without any independent action on the part of the debtor corporation. The proofs further disclose by uncontradicted testimony that charges were made by Standard against the debtor corporation amounting to many millions of dollars which had no semblance of justification whatsoever. The specific nature of the objections of petitioners to the claim of Standard Gas and Electric Company and to the confirmation and approval of said plan of reorganization are set forth in separate sets of objections to each which were filed by petitioners prior to the time of hearing thereon in the District Court. Copy of said objections is attached to each of the aforesaid Petitions for Leave to Appeal filed with the Clerk of this Honorable Court on January 19, 1937, and marked Exhibit C thereof. That since said orders of December 22, 1936, petitioners have filed further objections precedent to the hearing of February Third, 1937. The allegations set forth in said objections are practically entirely borne out by uncontradicted testimony that was taken before the Special Master, as well as by testimony taken in open court before the Honorable Franklin E. *Kannamer*, District Judge.

4. That the proofs before the Special Master in connection with the controversy over the claim of Standard Gas and Electric Company were completed at about the middle of February, 1935. Both sides had rested, and briefs were ordered submitted by the Special Master. At that point, under date of March 8, 1935, the Trustee and Standard agreed to a compromise proposal which was to be submitted to the court for approval, purporting to be a settlement of the claim of Standard Gas and Electric Company. By the terms of the compromise proposal, it was provided that Standard would be allowed a claim totalling approximately $4,750,000.00, about $3,000,000.00 of which was to be on a par with the noteholders, and the balance of which was to be subordinated to the claim of the noteholders, but the total sum approximating

$4,750,000.00 to be a claim ahead of the rights of the holders of preferred stock. That said offer of compromise was submitted just shortly after the granting of the petition of John N. and William H. Taylor, holders of 550 shares of preferred stock, to intervene in these proceedings, to which petitions for intervention were attached objections to the allowance of the claim of Standard Gas and Electric Company.

5. The District Court ordered a hearing on this compromise proposal before the Special Master. The Special Master recommended approval of this compromise proposal, and the matter came on before the District Court on exceptions to the Master's report filed by said Taylors as holders of preferred stock, and on behalf of all other holders of preferred stock. Based solely upon the objections of the Taylors, said compromise proposal was rejected by the District Court under order entered September 23, 1935. That at the time of said hearing of September 23, 1935, said Honorable Franklin E. Kennamer stated in part:

"Now there is no need to go any further with this argument. I am thoroughly convinced, I have been studying the case, and that is the reason I had it set down for further argument, my conscience wouldn't let me approve this compromise from just hearing the arguments. Here is $5,000,000.00 worth of stock outstanding; somebody got that money from the public. Now under this settlement if I was to approve it, and in approving the plan of reorganization, I would just as well say to the stockholders, you are wiped out; you get a little piece of paper called common stock that I wouldn't give you one cent for." (Transcript, p. 71).

"The evidence is overwhelming the Standard ran this company; they officered it; they capitalized it; it is just a child in their hands, and if there ever was a case the law is clear on, it is nothing in the world but an instrumentality according to the admissions." (Transcript, p. 72).

That, at said hearing, said Honorable Franklin E. Kennamer further suggested that he was not adverse to considering what, in his opinion, would be a fair compromise proposal and suggested that if Standard had any such desire, it submit a new compromise proposal within ten days. Thereupon, Judge Kennamer further stated:

"Now I am just indicating to you the things I think will

be reasonable, and maybe it will help you out, but if you cannot reach a settlement I will enter an order denying the claim on the ground that the Instrumentality Rule applies." (Transcript, page 73).

6. That thereafter, despite continued protests by the Taylors, no action was taken to adjudicate on the merits of the claim of Standard Gas and Electric Company, although petitions for such adjudication were filed in November of 1935. Under date of November 9, 1936, a so-called new offer of compromise was filed by Standard Gas and Electric Company and at the same time, an Amended Plan of Reorganization was filed by the debtor corporation and the Reorganization Committee, hearing on each of which was set before the District Court for December 12, 1936, without any reference to a Special Master.

7. Prior to the filing of the compromise proposal on March 8, 1935, there had been promulgated by the Reorganization Committee, with the approval of Standard Gas and Electric Company, a plan of reorganization for the debtor corporation which we shall hereafter for convenience refer to as the first plan of reorganization. By the terms of the first plan of reorganization, it was provided that upon reorganization of the debtor corporation, the following allotment of securities was to take place:

(a) $10,000,000.00 of notes to the outstanding noteholders on the basis of par value of new notes for an equal amount of par value of outstanding notes.

(b) An issue of $2,500,000.00 of preferred stock to Standard Gas and Electric Company.

(c) 520,000 shares of common stock, of which:

(1) 80,000 shares would go to the noteholders for past due interest at the ration of 8 shares of common stock for each $1.000.00 note.

(2) 80,000 shares of common stock to the present holders of preferred stock at the rate of one share of common stock for each share of preferred stock now held, and

(3) 390,000 shares of common stock to the Standard Gas and Electric Company,

Thus approximately 10% of the common stock was to go to

the present pr ferred stockholders, approximately 15% of the common stock to the present noteholders, and approximately 75% of the common stock to Standard Gas and Electric Company.

The first plan provided that it was based on the assumption that Standard could establish a claim approximating $5,000,000.00, and that it was in lieu of its claim approximating $5,000,000.00 that Standard was to receive the whole of the new preferred stock issue of $2,500,000.00 and 75% of the new common stock. Thus, the validity of the Standard claim to the extent of approximately $5,000,000.00 was made the basis of practically wiping out the position of the holders of preferred stock.

8. By virtue of the rejection of the first compromise proposal, the first plan of reorganization was abandoned, and on November 9, 1936, the debtor and the Reorganization Committee submitted an Amended Plan of Reorganization. This plan as approved by said order of December 22, 1936, attached as Exhibit A of the Petition for Leave to Appeal from said order approving the Amended Plan filed with this Honorable Court on January 19, 1937, and being appealed from in the instant petition, provides for the following allocation of securities:

(a) $10,000,000.00 of new notes on the basis of an equal exchange for notes now outstanding. In addition to the new notes of an equal face amount, noteholders are to receive $120.00 in cash and four shares of common stock for each $1,000.00 note now held.

(b) 520,000 shares of common stock, of which:

(1) 40,000 shares are to be issued to the present noteholders.

(2) 100,000 shares to the present holders of preferred stock at the ratio of two new shares of common stock for each share of preferred stock now held, and

(3) the balance of 380,000 shares of new common stock is to go to the Standard Gas and Electric Company.

Thus, under the Amended Plan, the preferred stockholders are eliminated from their position as holders of preferred stock, and receive in lieu thereof, 19½% of the common stock, with 7½% of the common stock going to the noteholders and

approximately 73% going to Standard Gas and Electric Company. Again, this Amended Plan is based upon the supposition that a claim is allowed to Standard Gas and Electric Company of approximately $5,000,000.00. Article XII of said order, in confirming the said Amended Plan, distinctly makes such confirmation "subject to the order of this court dated November 22, 1936, approving the compromise of the claim of Standard Gas and Electric Company remaining unreversed."

9. The so-called new offer of compromise of the Standard claim approved and allowed by the District Court in an order entered on December 22, 1936, said order being attached as Exhibit A of the Petition for Leave to Appeal from said order filed with this Honorable Court on January 19, 1937, and being appealed from in the instant petition, is practically in all respects the same as the first compromise proposal which was rejected by the court under order of September 23, 1935. While provision is made by the second compromise proposal to have a million and a half dollars of the claim on a par with the noteholders, and the balance subordinated to the notes, the change is of no consequence whatever from the standpoint of the holders of preferred stock, inasmuch as the full amount of the claim for Standard Gas and Electric Company approximating $5,100,000.00 is to be allowed ahead of the rights of the holders of preferred stock.

10. In the latter part of 1936, the Taylors caused to be organized the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, and an order was entered on December 22, 1936, permitting the Independent Committee to intervene in these proceedings and to be substituted in the place and stead of John N. Taylor and William H. Taylor. Your petitioners, as said Independent Committee, by virtue of duly executed powers of attorney, represent in excess of 10,000 shares of the preferred stock of the debtor corporation having a par value in excess of $1,000,000.00, and on which there is due with accumulated dividends, in excess of $1,400,000.00 from the debtor corporation. The preferred stock represented by your petitioners amounts to slightly more than 20% of the outstanding preferred stock of the debtor corporation. The hearing on the allowance of the new compromise of the claim and the confirmation of the Amended Plan heretofore discussed herein,

was set for December 12, 1936. Prior to the hearing of December 12, 1936, on said compromise of claim and said Amended Plan, your petitioners filed objections to each proposal, copy of which objections is attached to and marked Exhibit C of the Petition for Leave to Appeal from the order compromising the claim and Petition for Leave to Appeal from the order confirming the Amended Plan of Reorganization filed with the clerk of this Honorable Court on January 19, 1937, reference to which is hereby prayed as fully as if set forth herein. As hereinbefore set forth, said compromise proposal of Standard Gas and Electric Company is expressly conditioned upon approval and consummation of the Amended Plan of Reorganization by which Standard is to get 73% of the common stock of the reorganized company.

11. While the specific nature of petitioners' reasons and grounds for appeal appear in said Exhibits C of the Petitions for Leave to Appeal filed with this Honorable Court on January 19, 1937, and reference to which Exhibits is hereby prayed as fully as if set forth herein, and Exhibit Y of the instant petition, the contentions of petitioners may be generalized as follows:

(a) That the compromise proposal and Amended Plan based thereon, are part of a subterfuge on the part of Standard to squeeze out the prior rights of the holders of preferred stock.

(b) That there were no facts before the court which warranted the allowance of any claim to Standard Gas and Electric Company or a compromise on the terms therein contained, and that the order allowing said claim and approving the Amended Plan based thereon, was without legal right, as well as an abuse of discretion on the part of the District Court.

(c) That the Plan was basically unfair and without justification in being predicated upon the existence of a valid claim on the part of Standard Gas and Electric Company in an amount approximating $5,000,000.00.

(d) That the Amended Plan was unfair to the holders of preferred stock by cutting off the major part of their equity, although under the undisputed facts, the entire equity should be theirs, so that they might gain such benefit as might accrue from future profits of the debtor corporation or from future enhancement in value of its assets.

(e) That the Amended Plan is not based upon a fair appraisal of the assets of the debtor corporation, to the detriment of the holders of preferred stock, whose equity is thus shown to be decreased, inasmuch as no consideration was given to the earnings or earning power of the debtor corporation in the appraisal of its fixed assets.

(f) That under the only testimony before the court wherein the earning power of the debtor corporation was taken into account, the value of the debtor corporation is approximately $21,000,000.00, which was sufficient to pay off in full the outstanding $10,000,000.00 note issue, as well as the Standard claim in an amount approximating $5,000,000.00, assuming it has such claim, and still leave an equity for the holders of preferred stock equalling approximately $5,000,000.00, the major portion of which is in fact being eliminated by the terms of the Amended Plan.

(g) That the Reorganization Committee obtained consents to the said Amended Plan from a majority of the holders of preferred stock without making a full disclosure of the nature of the invalidity of the Standard claim, and that said Reorganization Committee was not fairly representative of the interests of the holders of preferred stock of the debtor corporation.

(h) That the Amended Plan of Reorganization and compromise of the claim were not accepted by the requisite majority of the preferred stockholders inasmuch as, of the total of 29,000 consenting to the Plan, 989 shares are owned by Standard Gas and Electric Company and 6,000 shares are owned by the Utility and Industrial Corporation, which is under the complete management and control of H. M. Byllesby and Company. That Standard Gas and Electric Company cannot use their control of the preferred stock to vote in favor of the Plan of Reorganization which gives them 73% of the equity of the new corporation because of their claims as an unsecured creditor.

(i) That the Amended Plan of Reorganization and compromise of the claim were not accepted in good faith inasmuch as the interests which accepted said Amended Plan and without which a majority of acceptances is lacking, are prompted by reasons not applicable to those members of the public holding preferred stock of the Debtor Corporation.

(j) That the retention of complete jurisdiction by the court over the management and appointment of executive officers and directors of the debtor corporation is illegal as beyond the power of the court, and unfair as contrary to the best interest of the debtor corporation.

(k) That many other errors of law have been committed by the District Court in the said orders of December 22, 1936, which are more specifically set forth in the Assignment of Errors attached hereto.

12. That it appears under the uncontroverted testimony that John J. Shinners, Chairman of the Reorganization Committee, is the Vice-President of H. M. Byllesby and Company, which is the top holding company controlling Standard Gas and Electric Company; that said Reorganization Committee was initiated by said John J. Shinners at the inception of the receivership of the debtor corporation, and that he personally, with the aid of other members of H. M. Byllesby and Company chose the remaining members of said Committee. That said Committee approved and recommended the original plan of reorganization which was described by the District Judge at the hearing of September Twenty-third, 1935, as in effect unconscionable. That said Reorganization Committee has, throughout its existence, indicated a greater desire to protect the interests of Standard Gas and Electric Company than to carry out its fiduciary obligations to the holders of preferred stock who deposited with it. That said Reorganization Committee has voted large amounts of stock in favor of the Plan and compromise of the claim, which said stock was herewith owned by Standard Gas and Electric Company or completely controlled by it or its parent company, H. M. Byllesby and Company, and without which, there would be no majority vote.

13. The appraisal filed by the Trustee upon which the Amended Plan of Reorganization is based was, under the uncontroverted testimony, prepared by employees of the debtor corporation who had for years been under the domination and control of Standard Gas and Electric Company, said appraisal concededly failed to take into account the earnings of the debtor corporation in the fixing of the values, and was characterized by the District Judge at the time of the hearing as being low. Said appraisal, moreover, is contradicted by the only witness who placed a value upon the corporation's fixed assets in the light of its earnings, as well as

its physical assets. Said appraisal places a value upon the fixed assets of approximately $9,500,000.00, although there was produced in open court the written appraisal of the Trustee that the value of its fixed assets was approximately $13,000,000.00 in August of 1933, and although the Trustee testified in open court that the fixed assets were worth approximately $3,000,000.00 more at the present time than they were in 1933. Thus, if the Trustee's 1933 appraisal were taken in conjunction with his testimony as to present increased values, it would place a value of approximately $16,000,000.00 on the fixed assets. To this valuation must be added the value of the net current assets amounting to approximately $7,000,000.00. Thus, we would have a total valuation of approximately $23,000,000.00, or sufficient to pay off the notes in full, as well as a claim of $5,000,000.00 to Standard, assuming it has one, and in addition, would leave an equity sufficient to pay out the full amount of the investment of the holders of preferred stock. Yet even such a valuation compares unfavorably with the book value of the assets of the debtor corporation, which at the time of the receivership, were carried at well in excess of $40,000,000.00, although there was only about $400,000.00 of cash on hand at that time, as compared with approximately $5,000,000.00 of cash on hand at the present time, not to mention substantial increases in inventory values and accounts receivable. *In the face of such uncontroverted facts, there can be no justification for an elimination of about four-fifths of the equity of the holders of preferred stock.*

At the hearing before the Honorable Franklin E. Kennamer, District Judge, there was entered on December 22, 1936, the aforesaid order allowing said compromise of the Standard claim, approximating $5,100,000.00, and approving and confirming said Amended Plan of Reorganization. Within the time for appeal, petitioners presented to the said District Judge a petition for leave to appeal as of right under Section 25 of the United States Bankruptcy Act, as amended, from said order compromising the claim, and simultaneously presented their Petitions for Leave to Appeal to this Honorable Court under Section 24 (b) of said Act from both orders of December 22nd, 1936. Said District Judge denied said Petition on the ground that neither order was final, but that they were merely interlocutory and conditional. On February 3, 1937, said District Judge entered the aforesaid order, attached hereto as Exhibit X hereof, making final and appealable said

orders of December 22, 1936. Wherefore, petitioners take this appeal from all or said orders at this time.

Petitioners show unto this Honorable Court that said orders, being Exhibit A of the Petition for Leave to Appeal from the order compromising the claim filed in this Honorable Court on January 19, 1937, and Exhibit A of the Petition for Leave to Appeal from the order confirming said Amended Plan filed in this Honorable Court on January 19, 1937, both of which were made final and appealable by order of said District Judge entered on February 3, 1937, and being attached hereto as Exhibit X hereof, are erroneous in law for the reasons hereinbefore set forth, and as set forth in said Assignment of Errors, attached hereto as Exhibit Y hereof.

Petitioners further show unto this Honorable Court that Petition for Appeal is being presented to the District Court for appeal as of right from said orders allowing said compromise proposal and approving said Plan. That said appeal is being taken as a matter of right under the provisions of Section 25 of the United States Bankruptcy Act as an allowance of a claim in excess of Five Hundred ($500.00) Dollars. That for the purpose of safeguarding the jurisdictional requirements, your petitioners are also asking this court, by Petition for Leave to Appeal, to permit an appeal from said orders under the provisions of Section 24 (b) of said Act. Your petitioners further show that the said compromise proposal and allowance of claim of Standard Gas and Electric Company being expressly tied in and made conditional upon acceptance of said Amended Plan of Reorganization and likewise said order, confirming amended plan, being based upon the allowance of a claim to Standard Gas and Electric Company in the sum of approximately $5,000,000.00, it is essential in bringing any part of said controversy before this court, that the entire controversy, both over the Standard claim and the confirmation of the Plan, be considered by this court.

Wherefore, your petitioners pray:

That they may be allowed, in the discretion of this Honorable Court, to appeal in matters of law herein from aforesaid orders, and each of them and every part thereof, that the prayer of this petition be granted, and a citation be issued directed to Standard Gas and Electric Company, H. N. Greis, Trustee of debtor corporation, Reorganization Committee of

Deep Rock Oil Corporation, and Deep Rock Oil Corporation, and their respective attorneys of record, commanding them to appear before the United States Circuit Court of Appeals for the Tenth Circuit, to do and receive what may appertain to justice, to be done in the premises, and that a transcript of the record and proceedings in said proceeding duly authenticated may be transmitted to the United States Circuit Court of Appeals for the Tenth Circuit.

Dated, the 24th day of February, 1937.

JOHN M. TAYLOR, OSCAR A. KENNEDY, and H. RUSSEL HASTINGS, being the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, by their duly authorized attorneys of record,

SEMPLINER, DEWEY, STANTON & HONIGMAN,
By JASON L. HONIGMAN,

Business Address: 2003 Dime Bank Building, Detroit, Michigan.

MILSTEN and MILSTEN,
By TRAVIS I. MILSTEN,
Petitioners, Interveners and Appellants.

Business Address: 807 Tulsa Loan Building, Tulsa, Oklahoma.

United States of America, State of Michigan, County of Wayne, ss.

Jason L. Honigman, being duly sworn, deposes and says that he is a member of the firm of Sempliner, Dewey, Stanton & Honigman, attorneys for the appellants and petitioners described in the foregoing petition, and that he has had principal charge of the litigation in the above cause in behalf of said appellants, and that he has prepared and read the foregoing petition by him subscribed, and that the matters therein set forth are true to the best of his knowledge, information and belief.

Further deponent sayeth not.

JASON L. HONIGMAN.

Subscribed and Sworn to before me this 24th day of February, A. D. 1937. Evelyn G. Smith (Sgd), Notary Public, Wayne County, Michigan. My commission expires:

Filed Feb. 26, 1937.

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[Exhibit X, Order No. 146, appears in identical form at page 428, Volume I, of this record and therefore is not printed here.]

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[Exhibit Y, Assignment of Errors, appears in identical form at page 438, Volume I, of this record and therefore is not printed here.]

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(Order)

Twenty-third Day, January Term, Tuesday, March 9th, A. D. 1937. Before Honorable Robert E. Lewis, Honorable Orie L. Phillips and Honorable Sam G. Bratton, Circuit Judges.

This cause came on to be heard upon the petition of John M. Taylor et al., interveners, for the allowance of an appeal from an order of the United States District Court for the Northern District of Oklahoma entered on the 3rd day of February, 1937, in the matter of Deep Rock Oil Corporation, Debtor, No. 2318, In Bankruptcy, in said District Court, and was argued and submitted to the court.

On consideration whereof, it is now here ordered by this court that the said petition be and the same is hereby granted and that the appeal be and the same is hereby allowed upon condition that appellants furnish a cost bond in the sum of five hundred dollars, with surety or sureties to be approved by a judge of this court, within ten days from this day.

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[Bond on appeal in the sum of $500.00, with appellants as principals and Central Surety and Insurance Corporation as surety, approved by Robert E. Lewis, Circuit Judge, was filed in this court on March 22, 1937.]

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[Citation in proper form, directed to appellees, was issued on March 22, 1937, and was returned and filed in this court on April 1, 1937, showing acceptance of service by Counsel for appellees on March 27, 1937.]

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(Order)

Twelfth Day, April Term, Wednesday, April 28th, A. D. 1937. Before Honorable Robert E. Lewis and Honorable Orie L. Phillips, Circuit Judges.

This cause came on to be heard on the application of appellants for an enlargement of the time within which to file the transcript of the record herein and was submitted to the court.

On consideration whereof, it is now here ordered by the court that said application be and the same is hereby granted and that the time within which the transcript of the record in this cause may be filed be and the same is hereby extended to and including the 5th day of June, 1937.

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(Order)

Nineteenth Day, April Term, Tuesday, June 1st, A. D. 1937. Before Honorable Robert E. Lewis and Honorable Orie L. Phillips, Circuit Judges.

This cause came on to be heard on the motion of appellants for an enlargement of the time within which to file the transcript of the record herein and was submitted to the court.

On consideration whereof, counsel for appellees consenting thereto, it is now here ordered by the court that said motion be and the same is hereby granted and that the time within which the transcript of the record in this cause may be filed be and the same is hereby extended to and including the 30th day of June, 1937.

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(Order)

Twenty-ninth Day, April Term, Thursday, June 24th, A. D. 1937. Before Honorable Robert E. Lewis and Honorable Sam G. Bratton, Circuit Judges.

This cause came on to be heard on the application of appellants for an enlargement of the time within which to file the transcript of the record herein and was submitted to the court.

On consideration whereof, and for good cause shown, it is now here ordered by the court that said application be and the same is hereby granted and that the time within which the transcript of the record in this cause may be filed be and the

same is hereby extended to and including the 9th day of July, 1937.

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Stipulation on Record on Appeal.

It Is Hereby Stipulated by and between the undersigned Appellants and Appellees, by their respective counsel, that the record on appeal in the above entitled cause, being Docket No. 1545, shall be the same record as the record on appeal in the above cause in the appeal taken by Appellants herein under Section 25 of the United States Bankruptcy Act as amended, from order entered in the District Court of the United States for the Northern District of Oklahoma, in the above cause, in February 3, 1937, and allowed by the Hon. F. E. Kennamer on February 24, 1937, and, in addition thereto, all other relevant pleadings and orders on file in the office of the clerk of the Circuit Court of Appeals in connection with the above entitled appeal, being No. 1527.

SEMPLINER, DEWEY, STANTON & HONIGMAN,
By JASON L. HONIGMAN,
MILSTEN & MILSTEN,
By TRAVIS I. MILSTEN.
Attorneys for John M. Taylor, Oscar A. Kennedy, and H. Russel Hastings, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Appellants.

H. N. GREIS,
Trustee, Deep Rock Oil Corporation.
By GEORGE S. RAMSEY, VILLARD MARTIN, and EDGAR A. deMEULES, his attorneys,
By GEO. S. RAMSEY.

STANDARD GAS AND ELECTRIC COMPANY,
By N. A. GIBSON, R. M. CAMPBELL, WILBUR J. HOLLEMAN, its attorneys,
By N. A. GIBSON.

THE REORGANIZATION COMMITTEE FOR DEEP ROCK OIL CORPORATION,
By CAMPBELL and BIDDISON, and CUTTING, MOORE & SIDLEY, its attorneys,
By CHARLES F. MARTIN, JR.

DEEP ROCK OIL CORPORATION, a corporation,
By WILLIAM F. SEMPLE, its attorney,
By WILLIAM F. SEMPLE,

Filed June 26, 1937.

Appellees.

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Stipulation re Consolidation of Appeals.

Now Come the above named appellants and appellees, by their respective attorneys, and hereby stipulate and agree that:

Whereas, appellants have taken timely appeal under both Section 25 and Section 24-B of the United States Bankruptcy Act, as amended, from those certain orders entered by the Honorable Franklin E. Kennamer, District Judge for the Northern District of Oklahoma, in that certain case entitled:

"In the Matter of Deep Rock Oil Corporation,
a Corporation, Debtor,"

in Bankruptcy No. 2318, Consolidated, being proceedings for reorganization under Section 77-B of the United States Bankruptcy Act, as amended, which said orders are described as

(1) An order entered on the 22d day of December, 1936, in which the claim of the Standard Gas and Electric Company was allowed as an unsecured claim in the sum of approximately $5,100,000. entitled: "Order Approving Compromise of Claim of Standard Gas & Electric Company in Accordance with Offer made by Standard Gas & Electric Company, dated November 7, 1936, and Adjudicating and Allowing said Claim under the Terms and Subject to the Conditions of said Offer of Compromise."

(2) An order entitled "Order No. 142", entered on the 22d day of December, 1936, confirming the amended plan of reorganization which allots to Standard Gas & Electric Company 73% of the common stock in the new corporation, pursuant to the aforesaid order approving the Standard compromise proposal; and

(3) An order entered on February 3, 1937, entitled "Order No. 146" by the terms of which the aforesaid orders of December 22, 1936, are made final and appealable, and

Whereas, said appeals filed by appellants consist of:

(1) Petition for Leave to Appeal under Section 24-B of the United States Bankruptcy Act from the aforesaid order of December 22, 1936, allowing said claim of Standard Gas & Electric Company, which said appeal has been docketed as No. 1526 of this court, and

(2) Petition for Leave to Appeal under Section 24-B of the United States Bankruptcy Act from the aforesaid order No. 142, confirming the amended plan of reorganization, which appeal is docketed herein as case No. 1527, and

(3) Petition for Leave to Appeal under Section 24-B of the United States Bankruptcy Act from the aforesaid order No. 146, entered on February 3, 1937, making final the aforesaid orders of December 22, 1936, which said appeal has been docketed in this court as case No. 1545, and

(4) Appeal under Section 25 of the United States Bankruptcy Act from the aforesaid order of February 3, 1937, making final the aforesaid orders of December 22, 1936, and

Whereas, the appeals taken from the orders of December, 22, 1936, being docketed in this Honorable Court as Nos. 1526 and 1527, were taken by appellants under the view of appellants—that said orders were final and appealable, although it was the view of the aforesaid Honorable Franklin E. Kennamer, District Judge, as well as of appellees, that said orders would not become final and appealable until entry of the subsequent order of February 3, 1937, being Order No. 146, aforesaid, and

Whereas, petitions for leave to appeal from said order of February 3, 1937, making final said orders of December 22, 1936, were presented both to the Circuit Court of Appeals under Section 24-B of said Bankruptcy Act and to the said District Court under Section 25 of said Act, and

Whereas, all of said petitions for leave to appeal were allowed, of which appeals numbered aforesaid, as (1), (2) and (3) are docketed in this Honorable Court as Numbers 1526, 1527 and 1545, respectively, and were allowed by this Honor-

able Court on March 9, 1937, and said appeal numbered aforesaid as (4) and being a petition under Section 25 of the United States Bankruptcy Act, was allowed by the Honorable Franklin E. Kennamer, District Judge, by order entered on February 24, 1937, and

Whereas, all of said appeals arise in the same suit and involve an interrelated and practically inseparable controversy that, in the opinion of appellants and appellees, should be heard on appeal as a single cause and as part of a single record,

Now, Therefore, it is Hereby Stipulated and Agreed:

1. That all of the aforementioned appeals under Section 24-B of the United States Bankruptcy Act, along with the aforesaid appeal under Section 25 of the United States Bankruptcy Act, be consolidated as one appeal and be heard on appeal as a single cause with a single record and entitled as follows:

"In the Matter of Deep Rock Oil Corporation, Debtor Corporation, JOHN M. TAYLOR, OSCAR A. KENNEDY, H. RUSSEL HASTINGS, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Interveners, Appellants, v. STANDARD GAS & ELECTRIC COMPANY, REORGANIZATION COMMITTEE OF DEEP ROCK OIL CORPORATION, H. N. GREIS, TRUSTEE OF DEEP ROCK OIL CORPORATION, AND DEEP ROCK OIL CORPORATION, Appellees, No. 1545 Consolidated."

2. That said consolidated appeal shall be considered the appeal in this cause of all of the aforesaid orders under both Section 24-B and Section 25 of the United States Bankruptcy Act; that no further bond on appeal shall be required other than the bond now on file in the District Court in the appeal under Section 25 of the Bankruptcy Act; that all steps incident to the carrying on of said appeals, except as herein provided, including citations, praecipe for record, extensions of time for preparation of record on appeal, appearances of appellees, and all other steps incidental to the carrying on and presentation of said appeals, as well as motions incident thereto, shall be taken in this court and as a part of the said consolidated cause. It is provided, however, that the praecipe for record shall be filed by appellants in the office of the Clerk of the Dis-

trict Court of the United States for the Northern District of Oklahoma, and all other steps shall be taken in the District Court regarding the preparation, certification and transmittal of the record on appeal as are required by applicable rules of court.

TRAVIS I. MILSTEN,
JASON L. HONIGMAN,
Attorneys for JOHN M. TAYLOR, OSCAR A. KENNEDY, and J. RUSSEL HASTINGS, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Appellants.

N. A. GIBSON,
WILBUR J. HOLLEMAN,
Attorneys for Standard Gas & Electric Company, Appellee.

VALJEAN BIDDISON,
CAMPBELL & BIDDISON,
JAMES F. OATES,
LIDLEY, McPHERSON,
AUSTIN & BURGESS,
Attorneys for Reorganization Committee, Appellee.

GEO. S. RAMSEY,
Attorney for Trustee of Debtor Corporation, Appellee.

W. F. SEMPLE,
Attorney for Debtor, Appellee.

Filed June 29, 1937.

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Statement of Parts of Record to be Printed.

Dear Sir: Please take note that the following is a Statement of the Parts of the Record to be printed in connection with these Appeals:

1. Entire Record as sent up from the District Court.

2. Stipulations that Record on Appeal shall be the same in all of the cases.

3. Petition for Leave to Appeal in case number 1545, filed with the Circuit Court of Appeals ommitting Assignment of

Errors attached thereto, with notation that Assignment of Errors are the same as those in the petition for appeal from the order of February, 3, 1937, filed in the District Court under Section 25 of the Bankruptcy Act, which are included in the record on appeal sent up from the District Court.

4. Order of the Circuit Court of Appeals allowing appeal in case numbered 1545.

5. Citation on appeal in case numbered 1545 and acknowledgment of service thereof by Counsel for Appellees.

6. Orders extending time for filing record on appeal filed in case numbered 1545.

Very truly yours,

JASON L. HONIGMAN,
Attorney for Appellants.

We hereby consent to the foregoing statement of parts of record to be printed and hereby waive the right to designate any additional parts of the record to be printed.

GEO. S. RAMSEY,
Attorney for Trustee,

WILLIAM P. LIDLEY,
JAMES F. OAKES,
Attorneys for Reorganization Committee,

N. A. GIBSON,
R. M. CAMPBELL,
Attorneys for Standard Gas & Electric Co.,

W. F. SEMPLE,
Attorney for Deep Rock Oil Corporation.

Filed July 15, 1937.

## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

PLEAS AND PROCEEDINGS BEFORE THE HONORABLE F. E. KENNAMER, JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA, PRESIDING IN THE FOLLOWING ENTITLED PROCEEDING:

In Proceedings for Re-Organization. No. 2318 Consolidated.

In the Matter of

DEEP ROCK OIL CORPORATION, a corporation, DEBTOR.

### Stipulation.

It is stipulated and agreed by and between counsel for appellant and appellees as follows:

1. Proceedings in Equity.

In a suit in the District Court of Tulsa County, Oklahoma, filed by John L. Gray and L. B. Riddle against Deep Rock Oil Corporation, Deep Rock Oil & Refining Company, Standard Gas and Electric Company and Oklahoma Gas and Electric Company, No. 55845, on February 28, 1933, E. H. Moore was appointed Receiver. Immediately thereafter the cause was removed by Deep Rock Oil Corporation to the United States District Court for the Northern District of Oklahoma, and therein docketed as No. 844 Equity.

On March 2, 1933, the said United States District Court appointed H. N. Greis and E. H. Moore co-receivers of Deep Rock Oil Corporation and of its properties and assets.

On March 25, 1933, Standard Gas and Electric Company filed proof of its claim against Deep Rock Oil Corporation in the sum of $9,342,642.37, and on March 29, 1933, the answer and counterclaim of the Receivers to said claim of Standard Gas and Electric Company was filed.

By leave of court, Standard Gas and Electric Company did on the 15th day of August, 1933, file its petition in intervention in said cause, demanding the same amount as previously demanded in its claim filed; and thereafter on the 28th of November, 1933, H. N. Greis and E. H. Moore, Receivers,

filed their answer and counterclaim to the said petition in intervention; and thereafter, by leave of court, Standard Gas and Electric Company did on December 28, 1933, file its answer and reply to the said counterclaim of the said H. N. Greis and E. H. Moore, as Receivers of Deep Rock Oil Corporation.

On January 5, 1934, the issues thus joined as to the claim of Standard Gas and Electric Company and the counterclaim of the Receivers were referred to Honorable Preston C. West, as Special Master, to take and report testimony concerning the said claim, and he thereafter duly qualified and took testimony, which was subsequently filed by him, and by agreement of counsel subsequently introduced and considered in evidence in the bankruptcy proceeding under Section 77-B of the Bankruptcy Act, later instituted.

Upon the institution of the proceedings in bankruptcy, now pending under No. 2318-B in the United States District Court for the Northern District of Oklahoma, the Standard Gas and Electric Company on the 22nd day of June, 1934, filed its claim in bankruptcy, in the same amount as that asserted in the proceedings in equity; and immediately thereafter the Trustee in Bankruptcy filed objections to the allowance of the claim, and the claim was thereupon by order of court referred to Honorable Preston G. West, as Special Master, for further hearing, and he thereafter took testimony which was by him reported, and is now a part of the record in this case.

On the 8th day of March, 1935, H. N. Greis, Trustee in Bankruptcy, filed his petition for authority to compromise the claim of Standard Gas and Electric Company, and at the same time filed amended objections to the allowance of said claim. On the same day the court made and entered an order referring the petition of the Trustee for leave to compromise the claim of Standard Gas and Electric Company to Honorable Preston C. West, as Special Master, for determination and report, and he thereafter gave notice and heard evidence and argument on March 25, 1935, under the said reference, and on the 11th day of May, 1935, filed his report recommending the settlement of the said claim as proposed.

The court in his order of reference to the Master directed that all evidence taken and adduced before the Master in the

receivership proceedings should be considered as having been introduced in the bankruptcy cause.

2. Bankruptcy Proceedings.

On March 7, 1933, an involuntary petition in bankruptcy was filed against Deep Rock Oil Corporation as Cause No. 1950 in the United States District Court for the Northern District of Oklahoma by Charles Frazee, Jack Smith and Frank Arnold. On June 7, 1934, the alleged bankrupt, Deep Rock Oil Corporation, filed its answer in said involuntary bankruptcy proceedings as debtor under Section 77-B. Also on June 7, 1934, Deep Rock Oil Corporation filed its original petition as debtor under Section 77b in Bankruptcy in said court in Cause No. 2304. Thereafter on June 19, 1934, Deep Rock Oil Corporation, as debtor, filed a further original petition under Section 77b in said court in Cause No. 2318. The United States District Court for the Northern District of Oklahoma entered orders in the several proceedings, namely, 1950, 2304, and 2318, taking jurisdiction of Deep Rock Oil Corporation as debtor under Section 77-B and thereafter entered orders consolidating Cause No. 1950 with Cause No. 2304 and said consolidated cause with Cause 2318 as Case No. 2318 Consolidated, in which proceedings the 77-B case has been heard.

3. Compliance with Court Orders Directing Publication and/or Mailing of Notice.

Throughout the proceedings pending in the Consolidated Cause No. 2318 under Section 77-B of the Bankruptcy Act as amended, the court entered several orders directing the publication of notice in newspapers published at Chicago, New York, and Tulsa, and directing the Debtor, the Trustee, and the Reorganization Committee and the Special Master to mail notices to the security holders of the debtor. All of such requirements of the several orders requiring publication and/or mailing of notice by one or more of the parties in interest have been fulfilled. It is agreed, without limiting the generality of the foregoing, that the publication and mailing of notice prescribed in the following orders was duly effected and has been lawfully established in the record.

(a) Order No. 34, entered August 9, 1934, entered on the petition of the debtor filed that day setting for hearing the proposal of the original plan of reorganization for August 20, 1934.

(b) The order entered August 9, 1934, on the petition of intervention of the Reorganization Committee that day filed and setting for hearing on August 20, 1934, the matter of the approval of the terms and conditions of the Deposit Agreement of the said Reorganization Committee dated August 9, 1934.

(c) Order No. 80, entered May 16, 1935, setting for hearing on June 3, 1935 the first proposed compromise of the claim of Standard Gas and Electric Company and the report of the Special Master thereon.

(d) Order No. 81, entered May 17, 1935, directing the Trustee to give notice by mail and publication of the hearing on the first proposed compromise of the Standard claim and the report of the Special Master thereof.

(e) Order No. 94, entered August 12, 1935, setting for further hearing on September 23, 1935, the first offer of compromise of the claim of Standard Gas and Electric Company and the report of the Special Master thereon.

(f) Orders Nos. 137 and 138, entered November 9, 1936, directing the hearing on the amended plan of reorganization and the new proposal of compromise of the claim of Standard Gas and Electric Company for December 12, 1936.

(g) The interlocutory order, entered December 22, 1936, confirming the amended plan of reorganization as modified on conditions therein stated.

4. Report of Trustee re Claims Filed Pursuant to Order No. 56, and Order of Court re said Report.

On March 9, 1935, H. N. Greis, Trustee of the Debtor Corporation, filed with the court the claims filed with him pursuant to Order No. 56, entered on November 19, 1934, which included the claims and evidence of interest of the Reorganization Committee on behalf of depositing security holders of the Debtor and the claim of the Trustee under the indenture securing the gold notes of the Debtor on behalf of all note holders, and filed his report in re said claims filed with him pursuant to Order No. 56 entered on November 19, 1934.

By order of court entered March 9, 1935, the claim on behalf of the holders of the six per cent (6%) convertible gold

notes of Deep Rock Oil Corporation was allowed in the full amount of $10,000,000.00 principal amount and accrued interest from March 1, 1933 and said holders decreed to be unsecured creditors of the Debtor in said aggregate amount. In addition some sixty-four claims, set forth in said order, ranging from $20.00 to $17,912.47, were allowed and the respective claimants decreed to be unsecured creditors of the Debtor in the amounts set opposite their names in said order. The details of four exceptional claims were set forth in paragraph 2 of said order entered March 9, 1935 and provision for the payment of these claims was made pursuant to the respective awards of the State Industrial Commission. In paragraph 3 of said order entered March 9, 1935 claims numbered 70 to 90, both inclusive, ranging from $13.00 to $1,686,887.92 were listed as to which exceptions in writing had been filed. Said order contained the recital that the Trustee of the Debtor had recommended that the claims be disallowed; and by said order said claims were referred to Preston C. West, Special Master, to take testimony and report the evidence and his findings of fact and conclusions of law.

5. Report of Trustee in Compliance with Order No. 71.

On April 26, 1935, H. N. Greis, Trustee of the Debtor Corporation, filed with the court in compliance with Order No. 71 entered on April 17, 1935, his report setting forth:

(a) The names and addresses of the preferred stockholders of Deep Rock Oil Corporation as of December 12, 1934.

(b) The names and addresses of the common stockholders of Deep Rock Oil Corporation as of November 28, 1934.

(c) The available names and addresses of the holders of the March 1, 1938, notes of Deep Rock Oil Corporation as of April 25, 1935.

(d) The names and addresses of the other creditors and claimants of Deep Rock Oil Corporation, as of April 25, 1935.

6. Tentative Appraisal Report of the Trustee.

On October 22, 1936, H. N. Greis, Trustee, filed with the court his tentative appraisal report evaluating the properties of the Debtor. This tentative report is in the form as distributed by the Reorganization Committee under date of November 10, 1936, with the amended plan of reorganization

filed November 9, 1936, and is included in Reorganization Committee's Exhibit 1.

7. Inventory Filed by Trustee.

On November 21, 1936, H. N. Greis, Trustee of the Debtor Corporation, filed with the Court his inventory of the physical assets of Deep Rock Oil Corporation as of September 1, 1936. This inventory consisting of four large volumes containing in excess of Twenty-two hundred pages in all, sets forth and briefly describes each specific item of the real estate, plant, and equipment of Deep Rock Oil Corporation as of said date.

8. Extension of Deposit Agreement.

On November 28, 1936, the Reorganization Committee filed its petition for the approval of the extension of the term of its deposit agreement which expired December 1, 1936, to December 1, 1937, and the court entered its Order No. 140 authorizing and approving the extension of the term of said deposit agreement to December 1, 1937, which order was entered November 28, 1936.

9. The action of the Debtor in filing the original plan of reorganization on August 9, 1934, (which was duly proposed with the approval of the court by order entered August 20, 1934) and in filing the amendments and modifications thereof in the form of the amended plan filed November 9, 1936, (which was duly proposed with the approval of court by order entered December 17, 1936) was duly authorized and directed by formal action of the Board of Directors of the debtor at meetings held respectively on May 14, 1934, and November 7, 1936.

10. Proofs of Publication of Notice re Hearing of December 22, 1936.

On December 12, 1936, there was filed with the court the affidavit of Philip P. Page dated November 28, 1936, stating that he is the Vice President of The Journal of Commerce Publishing Company; that the notice of the Deep Rock Oil Corporation to the creditors, stockholders and claimants of said corporation, dated November 10, 1936, (an exact copy of which is printed in full herein and made a part hereof) was printed and published in the Chicago Journal of Commerce on the following dates, namely, November 14, 21 and 28, 1936.

In the District Court of the United States for the Northern District of Oklahoma.

In the Matter of Deep Rock Oil Corporation, a Corporation, Debtor. In Bankruptcy, No. 2318 Consolidated.

Notice to Creditors, Stockholders and Claimants Against the Debtor or Any of Its Property.

Notice is hereby given that on November 9, 1936, Orders were entered by the District Court of the United States for the Northern District of Oklahoma, which specified, among other things, the following:

1. That all parties in interest desiring to object to an Amended Plan of Reorganization filed herein by the Debtor on November 9, 1936, or its confirmation or desiring to suggest changes in or modification of said Amended Plan, shall file such objections or suggested changes or modifications in writing on or before December 7, 1936, at the office of H. N. Greis, Trustee, Atlas Life Building, Tulsa, Oklahoma, or with the clerk of this court at the Federal Building, Tulsa, Oklahoma, and that all parties in interest desiring to object to the approval of the written offer of Standard Gas and Electric Company filed herein on November 9, 1936, to compromise and settle its claim shall file such objections in writing on or before December 7, 1936, with H. N. Greis, Trustee herein, at his office in the Atlas Life Building, Tulsa, Oklahoma, or with the clerk of this court at the Federal Building, Tulsa, Oklahoma.

2. That a hearing was set for December 12, 1936, at the opening of court in the forenoon, in the United States District Court for the Northern District of Oklahoma, in the Federal Building at Tulsa, Oklahoma, before the Honorable F. E. Kennamer, District Judge, at which hearing or any adjournment thereof the court shall hear and determine the following matters:

(a) Consideration and approval of the proposal by the Debtor of an Amended Plan of Reorganization filed herein on November 9, 1936, and for the consideration and confirmation of said Amended Plan of Reorganization.

(b) Hearing and disposition of all objections made or filed herein in writing on or before December 7, 1936, by any party in interest entitled to object to any of the terms and provisions of said Amended Plan of Reorganization, and the consideration

and disposition of any changes, amendments, or modifications to said Amended Plan of Reorganization which may be filed or presented herein in writing on or before December 7, 1936, by any party in interest, and the consideration and disposition of any objections to the approval of the proposal filed herein on November 9, 1936, of Standard Gas and Electric Company to compromise and settle its claim, which may be filed herein in writing on or before December 7, 1936, by any party in interest.

(c) The entry of any and all Orders directing, fixing and determining the procedure, method and manner of carrying out, consummating and fulfilling the Amended Plan of Reorganization and all of its terms and provisions.

(d) Consideration of the making of such other and further Orders by the court as may be authorized by Section 77B of the Bankruptcy Act as amended, and which may be deemed necessary, appropriate and proper by the court.

All creditors and stockholders of Deep Rock Oil Corporation, and all claimants against any of its property may procure a copy of the Amended Plan of Reorganization to be considered for purposes of confirmation at the hearing set for December 12, 1936, and a copy of the written offer and proposal of the Standard Gas and Electric Company to compromise and settle its claim referred to in said Amended Plan of Reorganization, from the office of H. N. Greis, Trustee for Deep Rock Oil Corporation, Debtor, Atlas Life Building, Tulsa, Oklahoma, or from the Secretary of the Reorganization Committee, R. Miles Warner, Room 1100, 231 South La Salle Street, Chicago, Illinois.

Creditors and stockholders of the Debtor have a right to attend the above hearing, but are not required to do so.

Dated, this 10th day of November, A. D. 1936.

DEEP ROCK OIL CORPORATION, Debtor.

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To the Holders of Certificates of Deposit for Convertible Gold Notes and $7.00 Cumulative Convertible Preferred Stock of Deep Rock Oil Corporation, Issued Under Deposit Agreement Dated August 9, 1934.

Notice Is Hereby Given that, in conformity with the provi-

sions of Section (j) of the Deposit Agreement dated as of August 9, 1934, the undersigned Committee has modified the Deposit Agreement under date of November 10, 1936, making the Deposit Agreement conform to the Amended Plan of Reorganization for Deep Rock Oil Corporation filed pursuant to leave of court November 9, 1936, rather than to the original Plan of Reorganization proposed August 20, 1934. Copies of the Deposit Agreement, as modified, may be secured upon request from The First National Bank of Chicago and The Chase National Bank of the City of New York, Depositaries, or from R. Miles Warner, Room 1100, 231 South La Salle Street, Chicago, Illinois, the secretary of the undersigned Committee.

JOHN J. SHINNERS, Chairman,
NEWTON P. FRYE,
ROBERT F. HOLDEN,
JOHN H. MASON,
GRAYSON M.-P. MURPHY,
ALBERT J. ROBERTSON,
Reorganization Committee.

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On December 12, 1936, there was also filed with the court the affidavit of Louis A. Musto, dated November 28, 1936, stating that he is Principal Clerk of the Publisher of *the* The Journal of Commerce and Commercial; that the notice of the Deep Rock Oil Corporation to the creditors, stockholders and claimants of said corporation, dated November 10, 1936, was printed and published in *the* The Journal of Commerce and Commercial on the following dates, namely, November 14, 21 and 28, 1936.

This notice of the Deep Rock Oil Corporation published in *the* The Journal of Commerce and Commercial on the above stated dates, is identical with the notice of Deep Rock Oil Corporation to the creditors, stockholders and claimants of said corporation, published in the Chicago Journal of Commerce on November 14, 21 and 28, 1936, an exact copy of which is set out in full in Section 10 of this stipulation attached to the statement re the affidavit of Philip P. Page, dated November 28, 1936, and filed with the court on December 12, 1936.

11. Classification of Creditors and Stockholders.

On December 22, 1936, H. N. Greis, Trustee, filed his petition seeking the order of the court classifying the creditors and

stockholders of the Debtor, and on said December 22, 1936, the court entered its order classifying the creditors and stockholders of the Debtor in accordance with the classification set forth in Article 5 of interlocutory order No. 142 entered December 22, 1936, confirming the amended plan of reorganization as modified upon the conditions therein set forth.

12. Attempted Appeal from Interlocutory Orders of December 22, 1936.

The interveners, John M. Taylor et al., on January 20, 1937, filed with the District Court for the Northern District of Oklahoma their petition for appeal to the Circuit Court of Appeals from the orders entered December 22, 1936, conditionally approving the compromise of the Standard claim and conditionally confirming the amended plan of reorganization as modified, which said petition for leave to appeal was denied by order entered January 20, 1937.

13. Identification of New Company Under Plan of Reorganization and Approval of Documents.

On February 3, 1937, Deep Rock Oil Corporation, Debtor, and the Deep Rock Oil Company, a corporation organized under the laws of the State of Delaware, presented their petition to the court asking for the identification of the petitioner, the Deep Rock Oil Company, as the new company under the plan of reorganization and requesting the court to take jurisdiction of the new company and to approve the form and substance of the following instruments and documents which were attached to said petition:

Exhibit A. Certificate of incorporation of Deep Rock Oil Company.

Exhibit B. 6% Cumulative income sinking fund debentures.

Exhibit C. Indenture securing 6% income sinking fund debentures from Deep Rock Oil Company to the First National Bank of Chicago, as Trustee.

Exhibit D. Form of deeds of conveyance to be executed by the Debtor, Deep Rock Oil Company, and the Trustee, H. N. Greis, to the new company.

Exhibit E. Form of general assignment transfer, conveyance, and bill of sale to be used for transferring, conveying, selling and assigning all properties, assets, business and good

will of the Debtor to the new company, to be executed by the Debtor, and by the Trustee, H. N. Greis.

Exhibit F. Deed of conveyance from R. J. Graf, as Trustee, to H. N. Greis, Trustee of Deep Rock Oil Corporation, covering the land covered by the deed from Deep Rock Oil Corporation to said R. J. Graf, Trustee, dated December 26, 1922, together with improvements thereon.

Exhibit G. Stock certificate to be issued by new company.

The court on February 3, 1937, entered its order No. 147 on said petition, which said order identified the Deep Rock Oil Company as the new company under the plan of reorganization, took jurisdiction over said new company, and approved the form and substance of each of the exhibits described above, attached to said petition, and directed that all steps be taken and all acts done necessary, appropriate or proper to consummate and put into effect the said amended plan of reorganization immediately after the expiration of thirty (30) days from the date of the entry of this Order (February 3, 1937), provided no appeal was then pending.

14. Substitution of Mr. Hastings for Mr. Webster as a Member of the Intervening Independent Stockholders Committee.

On February 3, 1937, a petition was filed by the Intervening Stockholders Committee, and an order was entered thereon approving the substitution of H. Russell Hastings as a member of the said Independent Committee in place of E. T. Webster, a resigned member of said committee.

15. Affidavits re Deposits of Preferred Stock With Independent Committee.

On December 7, 1936, H. Russell Hastings filed an affidavit showing a total of 9,667 shares of Preferred Stock of Deep Rock Oil Corporation deposited with the Independent Committee, said affidavit showing names of individuals, certificate numbers, and amount of shares deposited. On December 5, 1936, additional deposits of 734 shares of Preferred Stock were shown by a similar affidavit. On December 9, 1936, additional deposits of 437 shares of Preferred Stock were shown by a similar affidavit, and withdrawals by the Pitcairn Company, Harold F. Pitcairn, and Nathan Pitcairn of 2030 shares of said Preferred Stock. On January 19, 1937, additional deposits of 712 shares of said Preferred Stock were shown by a

similar affidavit and withdrawals by Raymond Pitcairn and Mildred Pitcairn of 320 shares of said stock. On February 1, 1937, additional deposits of 1289 shares of Preferred Stock were shown by a similar affidavit, and withdrawals of 38 shares. This affidavit further showed a total of 10,295 shares of preferred stock deposited with said Committee on said date.

16. Revocation by the Pitcairns of Powers of Attorney Deposited With the Independent Committee.

The following revocation of powers of attorney deposited with the Independent Committee for the Protection of Preferred Stockholders were filed with the clerk of the court by the Pitcairns:

1. On December 8, 1936, Mildred G. Pitcairn withdrew powers of attorney for 160 shares of preferred stock of the Deep Rock Oil Corporation from the Independent Committee.

2. On December 8, 1936, Raymond Pitcairn withdrew powers of attorney for 160 shares of preferred stock of the Deep Rock Oil Corporation from the Independent Committee.

3. On December 9, 1936, the Pitcairn Company withdrew powers of attorney for 1,640 shares of preferred stock of Deep Rock Oil Corporation from the Independent Committee.

4. On December 9, 1936, Harold F. Pitcairn withdrew powers of attorney for 360 shares of preferred stock of the Deep Rock Oil Corporation from the Independent Committee.

5. On December 9, 1936, Nathan Pitcairn withdrew powers of attorney for 30 shares of preferred stock of Deep Rock Oil Corporation from the Independent Committee.

17. Order in re Report of Trustee re Claims of Reorganization Committee.

On June 14, 1937, the court entered an Order allowing the filing of the Report of the Trustee in re Claim of the Reorganization Committee with respect to Preferred Stock deposited with said Committee and the Proof of Claim of said Reorganization Committee with respect to Convertible Gold Notes deposited with it. By said order the report is to be considered as having been filed on March 9, 1935.

On January 19, 1935, the Reorganization Committee filed with the Trustee, attached to the "Proof of Interest Filed by

Reorganization Committee with Respect to Preferred Stock Deposited With It," (which proof was also filed with the Trustee on said date) the certificates of the Reorganization Committee's depositaries certifying that at the close of business on January 9, 1935, there were on deposit with the Reorganization Committee 27,030 shares of the $7 Cumulative *Prefered* Stock of the Deep Rock Oil Corporation. To said certificates were attached schedules giving the names and addresses of the depositors of the said Preferred Stock with the respective number of shares and certificate numbers set opposite their names.

On January 19, 1935, the Reorganization Committee filed with the Trustee attached to the "Proof of Claim of Reorganization Committee with Respect to Convertible Gold Notes Deposited With It," (which proof was also filed with the Trustee on said date) the certificates of the Reorganization Committee's depositaries certifying that at the close of business on January 9, 1935, there were deposited with the Reorganization Committee $7,452,000.00 aggregate principal amount of the Convertible Gold Notes of Deep Rock Oil Corporation. To said certificates were attached schedules showing the numbers of certificates of deposit issued by the depositaries to the depositors of said Convertible Gold Notes, the names and addresses of the depositors to whom certificates were issued, the numbers of the notes covered by such certificates of deposit, and the total par value of notes covered by such certificates of deposit.

SEMPLINER, DEWEY, STANTON & HONIGMAN,
By MILTON J. MILLER (Sgd)
Counsel for the Independent Committee for the Protection of the Holders of Preferred Stock.

N. A. GIBSON, (Sgd)
Counsel for Standard Gas and Electric Company.

GEO. S. RAMSEY, (Sgd)
Counsel for H. N. Greis, Trustee.

SIDLEY, McPHERSON, AUSTIN & BURGESS, (formerly Cutting, Moore & Sidley),
By CHARLES F. MARTIN, JR., (Sgd)
Counsel for the Reorganization Committee.

WILLIAM F. SEMPLE, (Sgd)
Counsel for Deep Rock Oil Corporation, a Corporation.

June 17, 1937.

Endorsed: Filed June 19, 1937. H. P. Warfield, Clerk.

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In the District Court of the United States for the Northern District of Oklahoma.

In the Matter of Deep Rock Oil Corporation, a corporation. In Bankruptcy No. 2318.

Original Petition of Deep Rock Oil Corporation Filed Pursuant to Section 77b of the Bankruptcy Act Concerning Corporate Reorganizations.

To the Honorable Judges of the District Court of the United States for the Northern District of Oklahoma.

Comes now your petitioner, Deep Rock Oil Corporation, a corporation, hereinafter sometimes designated "Debtor," and files this its original petition pursuant to Section 77b of the Bankruptcy Act concerning corporate reorganizations, and states:

(1) That this court has original jurisdiction in proceedings for the relief of Debtors, as provided in Section 77b of the Bankruptcy Act.

(2) That the Debtor is a corporation which could become a bankrupt under Section 4 of the Bankruptcy Act.

(3) That the Debtor is not a municipal, railroad, insurance, banking corporation, or a building and loan association, and that it is not engaged primarily in the tillage of the soil.

(4) That the Debtor is a corporation organized under and by virtue of the laws of the State of Delaware, and, for the six months next preceding the date of the filing of this petition, has had its principal place of business in Tulsa, in the County of Tulsa, in the State of Oklahoma, and in the Northern District of the State of Oklahoma; that the fact that for the six months next preceding the date of the filing of this petition the Debtor had its principal place of business in the City of Tulsa, in Tulsa County, in the State of Oklahoma, and in the Northern District of the State of Oklahoma, is not controverted.

(5) That the Debtor is a monied corporation, and the nature of its business is the producing, refining, and selling of petroleum products and their derivatives.

(6) That a brief description of the assets and liabilities of the Debtor, and its financial condition, is hereto attached marked Exhibits A and B and made a part hereof.

(7) That the outstanding capital stock of the Debtor as of this date consists of Fifty Thousand (50,000) shares of no par value common stock, and Five Hundred Fifty-nine Thousand Four Hundred and Seventy-five (559,475) shares of $7.00 Cumulative Preferred Convertible Stock of no par value; and that the paid in capital stock of the Debtor is Twenty-five Million One Hundred Ten Thousand Five Hundred Thirty-three Dollars and Ninety Cents ($25,110,533.90).

(8) That heretofore, to-wit, on the 28th day of February, A. D. 1933, a petition was filed in the District Court of Tulsa County, Oklahoma, against the Debtor, Deep Rock Oil Corporation, in cause entitled John L. Gray and L. B. Riddle, plaintiffs, vs. Deep Rock Oil Corporation, a corporation, defendant, and that on said date the said court entered an order on said petition appointing E. H. Moore as receiver of the properties and assets of the Debtor, and that the said E. H. Moore thereupon qualified as such receiver by taking the oath and executing the bond as required by said order of appointment; and on the 1st day of March, A. D. 1933, the Debtor caused said action to be removed to the District Court of the United States for the Northern District of Oklahoma where said cause is now pending, which said court is the court having primary jurisdiction in said cause; that on the 2nd day of March, A. D. 1933, the said John L. Gray and L. B. Riddle filed their amended bill of complaint in said court in equity cause No. 844, for the purpose of protecting the rights of said plaintiffs as creditors and stockholders of the Debtor, and for the purpose of having the property and assets of the Debtor administered by the court, and marshalling the respective liens and priorities thereon, and for the enforcement of the rights, liens and equities of the creditors of the Debtor; that upon said amended bill of complaint the court appointed H. N. Greis and E. H. Moore receivers of Deep Rock Oil Corporation.

(9) That since the appointment of the receivers for the Debtor by the District Court of the United States for the

Northern District of the State of Oklahoma, ancillary proceedings in this cause have been instituted in the following jurisdictions, where certain properties and assets of the Debtor are located, and said proceedings are still pending:

United States District Court for the Northern District of Illinois.

United States district Court for the Eastern District of Illinois.

United States District Court for the District of Kansas.

United States District Court for the Southern District of Illinois.

United States District Court for the Northern District of Indiana.

United States District Court for the Southern District of Indiana.

Circuit Court of Milwaukee County for the State of Wisconsin.

District Court in and for the State of Iowa.

United States District Court for the District of North Dakota.

United States District Court for the District of South Dakota.

United States District Court for the District of Minnesota.

United States District Court for the Western District of Arkansas.

United States District Court for the Eastern District of Arkansas.

United States District Court for the Western District of Oklahoma.

United States District Court for the Eastern District of Oklahoma.

United States District Court for the Northern District of Oklahoma.

United States District Court for the Eastern District of Texas.

Circuit Court of the City of St. Louis, State of Missouri.

Court of Chancery of the State of Delaware, in and for New Castle County.

(10) That the receivers of the Debtor in the court of primary jurisdiction, and the Board of Directors of the Debtor, deem it advisable and prudent that this petition be filed in this court in order that the Debtor may avail itself of the right to effectuate a reorganization of said Debtor under the provisions of Section 79 of the Bankruptcy Act; that at a meeting of the Board of Directors of the Debtor, Deep Rock Oil Corporation, duly called and held, a resolution was unanimously adopted declaring it advisable that a petition be filed herein pursuant to Section 77b of the Bankruptcy Act, and directing its attorneys, Cummins, Hagenah & Flynn, to file the same in accordance with the provisions of said section; that a reorganization along the lines contemplated by the provisions of Section 79 of the Bankruptcy Act will be for the best interest of the receivership estate of the Debtor, and for all creditors and stockholders of the Debtor; that to proceed under said Section 77b will permit a speedy and expeditious reorganization and substantially reduce the expense incident thereto; that in the interim period the estate of the Debtor will save substantial sums which will enure to the estate of the Debtor by virtue of having its properties and assets administered by a *Turstee* or Trustees to be appointed by this court in lieu of primary receivers and ancillary receivers for the Debtor now functioning in various jurisdictions.

(11) That heretofore, to-wit on the 1st day of March, A. D. 1928, the Debtor issued or caused to be issued its six per cent Convertible Gold Notes to the aggregate principal amount of Ten Million Dollars ($10,000,000.00), dated March 1, 1928, payable March 1, 1933, in denominations of One Thousand Dollars ($1,000.00) and Five Hundred Dollars ($500.00), bearing interest at the rate of six per cent (6%) per annum, payable semi-annually, on the first day of March and the first day of September in each year until the payment of the principal sum; that on to-wit the 28th day of February, A. D. 1933, notes of the Debtor in the aggregate principal amount of approximately Seven Million Eight Hundred Eighteen Thousand Five Hundred Dollars ($7,818,500.00) had been extended to March 1, 1937, by the owners thereof, upon solicitation of the Debtor, and the remaining notes of the full issue of Ten Million Dollars ($10,000,000.00) became due and payable on March 1, 1933; that on said date the Debtor was, and it now is, unable to pay its said promissory notes issued on March 1, 1928, which have matured and become payable; that the Debtor

was on said date, and now is, unable to meet its debts as they mature; and that Debtor desires to effect a plan of reorganization.

(12) That on the seventh day of March, 1933, an involuntary petition in bankruptcy was filed in the United States Court for the Northern District of Oklahoma, against the debtor, Deep Rock Oil Corporation, which cause was docketed as cause No. 1950 of the causes pending in said court; that said cause is still pending; that no order of adjudication has been entered in said cause;

Wherefore, your petitioner, Deep Rock Oil Corporation, respectfully prays:

(a) The order of this court approving this petition as properly filed in good faith under Section 77b of the Bankruptcy Act.

(b) The order of this court appointing a temporary trustee under the provisions of said Section 79, said trustee to have all the powers of a trustee appointed pursuant to Section 44 of the Bankruptcy Act and the same powers as those exercised by a receiver in equity, and the power to operate the business of the Debtor as a going concern until the further order of this court; and, after a hearing as provided in Section 77b of the Bankruptcy Act, the further order of this court appointing a permanent trustee, as in said Section provided, with like powers, and

(c) That this cause proceed as a proper proceeding under Section 79 of the Bankruptcy Act and that the court, from time to time, make such orders as may be to the best interests of the Debtor and of its creditors and stockholders, to be ultimately terminated as provided for in said Section 79.

And your petitioner will ever pray.

DEEP ROCK OIL CORPORATION,
By W. F. SEMPLE, (Sgd.)
Its Attorney.
And by W. E. MOODY,
(Seal) Its Vice-President.

Wm. Francisco (Sgd.), Secretary.

State of Oklahoma, County of Tulsa, ss.

I, W. E. Moody, being duly sworn upon oath, state that

I am a Vice-President of Deep Rock Oil Corporation; that the President of said corporation is absent from the Northern District of the State of Oklahoma; that the statements contained in the foregoing petition of Deep Rock Oil Corporation are true according to the best of my knowledge, information and belief.

W. E. MOODY, (Sgd.)

Subscribed and sworn to before me this 19th day of June, A. D. 1934. May Scheig (Sgd.), Notary Public. (Seal) My commission expires July 5, 1935.

Endorsed: Filed June 19, 1934, 12:08 P. M. H. P. Warfield, Clerk, U. S. District Court.

Exhibit A of Original 77-B Petition

# STATEMENT OF CONDITION
## AS AT FEBRUARY 28, 1933

## ASSETS

| | | | |
|---|---|---|---|
| CASH IN BANKS, ON HAND, AND IN TRANSIT | | | $ 394 173 27 |
| CASH ON DEPOSIT WITH TRUSTEE FOR 6% GOLD NOTES FOR PAYMENT OF INTEREST | | | 310 283 50 |
| NOTES AND ACCOUNTS RECEIVABLE: | | | |
| NOTES RECEIVABLE | | $ 72 864 96 | |
| CUSTOMERS ACCOUNTS RECEIVABLE | | 1 007 919 44 | |
| EMPLOYEES ACCOUNTS | | 4 272 10 | |
| DUE FROM CLOSED BANKS | | 14 403 19 | |
| MISCELLANEOUS | | 203 036 32 | |
| | | 1 302 526 01 | |
| RESERVE FOR BAD AND DOUBTFUL DEBTS PER BOOKS | $ 215 157 98 | | |
| ADDITIONAL RESERVE RECOMMENDED | 136 678 84 | 351 836 42 | 950 689 59 |
| INVENTORIES: | | | |
| CRUDE OIL ON HAND AT MARKET | | 80 919 11 | |
| REFINED PRODUCTS AT REFINERY - VALUATION LOWER THAN MARKET | | 503 163 49 | |
| REFINED PRODUCTS AT DISTRIBUTING POINTS - VALUATION AT REFINERY SALES MARKET, PLUS TRANSPORTATION AND TAX | | 464 855 83 | |
| MANUFACTURING SUPPLIES, CONTAINERS, ACCESSORIES, AND STATIONERY - AT COST | | 41 670 25 | 1 050 588 68 |
| REPAIRS AND REPLACEMENT MATERIALS AND SUPPLIES - BOOK INVENTORY VALUES: | | | |
| VALUATION OF RECONDITIONED MATERIALS AT LOWER THAN COST - NEW AT COST | | 502 685 62 | |
| LESS - RESERVE PER BOOKS FOR LOSSES AND ADJUSTMENTS | | 81 999 96 | 420 685 66 |
| PREPAID EXPENSES: | | | |
| UNEXPIRED INSURANCE PREMIUMS (ON CONTINUED CONTRACTS) | | 51 954 32 | |
| ADVANCED ROYALTIES AND RENTALS | | 9 376 08 | 61 330 40 |
| ADVANCES TO EMPLOYEES AND AGENTS FOR OPERATING FUNDS | | | 85 857 73 |
| DUE UNDER CONTRACTS OF SALE OF OIL PROPERTIES - COLLECTION DEPENDENT ON FUTURE OIL PRODUCTION | | 68 779 73 | |
| LESS RESERVE | | 34 389 86 | 34 389 87 |
| INVESTMENTS IN NON-AFFILIATED COMPANIES (PRESENT VALUE UNKNOWN) | | | 400 527 49 |
| INVESTMENTS IN AND BALANCES DUE FROM SUBSIDIARY COMPANIES: | | | |
| CAPITAL STOCKS - AT COST | | 852 572 13 | |
| CERTIFICATES OF INDEBTEDNESS, OBLIGATIONS OF THESE COMPANIES - AT COST | | 110 308 72 | |
| BALANCES DUE FROM THESE COMPANIES | | 1 093 416 83 | 2 056 297 68 |
| ADVANCES TO AN AFFILIATED COMPANY, THE PROPERTIES OF WHICH ARE LEASED, THE DEEP ROCK OIL AND REFINING COMPANY | | | 552 283 01 |
| PROPERTY, PLANT, AND EQUIPMENT - BOOK VALUES: | | | |
| UNCLASSIFIED VALUATION OF PROPERTIES AT ORGANIZATION ACQUIRED FOR CAPITAL STOCK, BONDS, AND CASH | | 16 430 603 75 | |
| SUBSEQUENT ADDITIONS INCLUDING PROPERTIES FROM SUBSIDIARIES | | 23 153 683 85 | |
| INTANGIBLE CHARGES | | 1 057 417 37 | |
| APPRECIATION OF PROPERTIES OF FORMER SUBSIDIARIES | | 461 793 79 | |
| | | 41 103 498 76 | |
| LESS - RESERVE FOR DEPRECIATION | | 3 539 978 82 | 37 563 519 94 |
| DISTRIBUTING EQUIPMENT LOANED AND IN HANDS OF AGENTS | | 488 329 94 | |
| LESS RESERVE | | 398 451 38 | 89 878 56 |
| DEFERRED CHARGES: | | | |
| BOND DISCOUNT AND EXPENSE | | 2 865 336 27 | |
| OTHER | | 1 559 47 | |

| | | | |
|---|---|---|---|
| CASH IN BANKS, ON HAND, AND IN TRANSIT | | | $ 394 173 27 |
| CASH ON DEPOSIT WITH TRUSTEE FOR 6% GOLD NOTES FOR PAYMENT OF INTEREST | | | 310 225 50 |
| NOTES AND ACCOUNTS RECEIVABLE: | | | |
| NOTES RECEIVABLE | | $ 72 864 96 | |
| CUSTOMERS ACCOUNTS RECEIVABLE | | 1 007 949 44 | |
| EMPLOYEES ACCOUNTS | | 4 272 10 | |
| DUE FROM CLOSED BANKS | | 14 403 19 | |
| MISCELLANEOUS | | 203 036 32 | |
| | | 1 302 526 01 | |
| RESERVE FOR BAD AND DOUBTFUL DEBTS PER BOOKS | $ 215 157 58 | | |
| ADDITIONAL RESERVE RECOMMENDED | 136 678 84 | 351 836 42 | 950 689 59 |
| INVENTORIES: | | | |
| CRUDE OIL ON HAND AT MARKET | | 80 919 11 | |
| REFINED PRODUCTS AT REFINERY - VALUATION LOWER THAN MARKET | | 503 163 49 | |
| REFINED PRODUCTS AT DISTRIBUTING POINTS - VALUATION AT REFINERY SALES MARKET, PLUS TRANSPORTATION AND TAX | | 424 835 83 | |
| MANUFACTURING SUPPLIES, CONTAINERS, ACCESSORIES, AND STATIONERY - AT COST | | 41 670 25 | 1 050 588 68 |
| REPAIRS AND REPLACEMENT MATERIALS AND SUPPLIES - BOOK INVENTORY VALUES: | | | |
| VALUATION OF RECONDITIONED MATERIALS AT LOWER THAN COST - NEW AT COST | | 502 685 62 | |
| LESS - RESERVE PER BOOKS FOR LOSSES AND ADJUSTMENTS | | 81 999 96 | 420 685 66 |
| PREPAID EXPENSES: | | | |
| UNEXPIRED INSURANCE PREMIUMS (ON CONTINUED CONTRACTS) | | 51 954 32 | |
| ADVANCED ROYALTIES AND RENTALS | | 9 376 08 | 61 330 40 |
| ADVANCES TO EMPLOYEES AND AGENTS FOR OPERATING FUNDS | | | 25 857 73 |
| DUE UNDER CONTRACTS OF SALE OF OIL PROPERTIES - COLLECTION DEPENDENT ON FUTURE OIL PRODUCTION | | 68 779 73 | |
| LESS RESERVE | | 34 389 86 | 34 389 87 |
| INVESTMENTS IN NON-AFFILIATED COMPANIES (PRESENT VALUE UNKNOWN) | | | 400 527 49 |
| INVESTMENTS IN AND BALANCES DUE FROM SUBSIDIARY COMPANIES: | | | |
| CAPITAL STOCKS - AT COST | | 852 572 13 | |
| CERTIFICATES OF INDEBTEDNESS, OBLIGATIONS OF THESE COMPANIES - AT COST | | 110 308 72 | |
| BALANCES DUE FROM THESE COMPANIES | | 1 093 416 83 | 2 056 297 68 |
| ADVANCES TO AN AFFILIATED COMPANY, THE PROPERTIES OF WHICH ARE LEASED, THE DEEP ROCK OIL AND REFINING COMPANY | | | 552 283 01 |
| PROPERTY, PLANT, AND EQUIPMENT - BOOK VALUES: | | | |
| UNCLASSIFIED VALUATION OF PROPERTIES AT ORGANIZATION ACQUIRED FOR CAPITAL STOCK, BONDS, AND CASH | | 16 430 603 75 | |
| SUBSEQUENT ADDITIONS INCLUDING PROPERTIES FROM SUBSIDIARIES | | 23 153 683 05 | |
| INTANGIBLE CHARGES | | 1 057 417 27 | |
| APPRECIATION OF PROPERTIES OF FORMER SUBSIDIARIES | | 461 793 79 | |
| | | 41 103 498 76 | |
| LESS - RESERVE FOR DEPRECIATION | | 3 539 978 82 | 37 563 519 94 |
| DISTRIBUTING EQUIPMENT LOANED AND IN HANDS OF AGENTS | | 488 329 94 | |
| LESS RESERVE | | 398 451 38 | 89 878 56 |
| DEFERRED CHARGES: | | | |
| BOND DISCOUNT AND EXPENSE | | 2 865 336 27 | |
| OTHER | | 1 559 47 | |
| TOTAL PER BOOKS | | 2 866 895 74 | |
| TOTAL | | | $ 43 910 445 39 |

Exhibit A of Original
77-6 Petition

STATEMENT OF CONDITION — CONTINUED

## LIABILITIES

| | | |
|---|---|---|
| SECURED LIABILITIES: | | |
| NOTES PAYABLE – SECURED BY MORTGAGES ON DISTRIBUTING STATIONS MATURING $200 00 MONTHLY, APRIL 1933 TO DECEMBER 1936 – $3 000 00 YEARLY 1933-1941 | | $ 34 388 90 |
| ACCRUED AND GENERAL UNSECURED LIABILITIES: | | |
| ACCRUED LIABILITIES: | | |
| WAGES, SALARIES AND COMMISSIONS | $ 100 728 31 | |
| GASOLINE TAXES | 114 844 81 | |
| GROSS PRODUCTION TAXES | 2 997 96 | |
| PROPERTY AD VALOREM AND MISCELLANEOUS TAXES | 132 495 17 | |
| | 351 066 25 | |
| GENERAL ACCOUNTS PAYABLE: | | |
| CRUDE OIL PURCHASES | 75 150 51 | |
| OPERATING EXPENSES AND PURCHASES | 195 155 51 | |
| EMPLOYEES CREDIT BALANCES | 271 59 | |
| CUSTOMERS CREDIT BALANCES | 13 844 23 | |
| MERCHANDISE COUPONS AND CUSTOMERS CONTRACT DEPOSITS | 7 282 65 | |
| UNPRESENTED BANK CHECKS | 36 829 59 | |
| | 328 534 08 | |
| ROYALTIES ON PATENTED PROCESSING CONTRACTS WITHHELD – IN DISPUTE | 197 355 73 | |
| DUE SUBSIDIARY COMPANY – SOUTHERN ILLINOIS SERVICE STATION COMPANY | 3 532 34 | |
| DEBENTURE BONDS OF FORMER SUBSIDIARY COMPANY – ASSUMED | 3 365 35 | |
| 6% CONVERTIBLE GOLD NOTES MATURING MARCH 1, 1933, OF WHICH $7 819 500 00 HAD BEEN EXTENDED BY AGREEMENT TO MARCH 1, 1937 WITH 7% PER ANNUM INTEREST | 10 000 000 00 | |
| INTEREST THEREON DUE MARCH 1, 1933 | 300 000 00 | |
| ACCOUNT DUE STANDARD GAS AND ELECTRIC COMPANY | 9 342 642 37 | 20 526 496 12 |
| RESERVES FOR LIABILITIES: | | |
| INCOME TAXES OF DEEP ROCK OIL AND REFINING COMPANY (AS RENTAL) | 127 056 73 | |
| WORKMEN'S COMPENSATION INJURY AND DAMAGE CLAIMS | 87 915 54 | |
| SUNDRY | 4 709 55 | 219 681 82 |
| TOTAL LIABILITIES AND RESERVES FOR LIABILITIES | | 20 780 566 74 |
| EXCESS OF ASSETS OVER LIABILITIES – SUBJECT TO VALUE OF INVESTMENTS IN NON-AFFILIATED AND SUBSIDIARY COMPANIES THE ADEQUACY OF RESERVES FOR DEPRECIATION AND DEPLETION AND LIABILITY FOR PRIOR YEARS FEDERAL INCOME TAXES AND CONTINGENT LIABILITIES (SEE BELOW) | | 23 129 878 64 |
| (REPRESENTED BY CAPITAL STOCK AND SURPLUS, PER BOOKS): | | |
| PREFERRED $7 00 CUMULATIVE – OUTSTANDING 50 000 SHARES – AT LIQUIDATING VALUE (UNPAID CUMULATIVE DIVIDENDS $758 333 33) | 5 000 000 00 | |
| COMMON, NO PAR VALUE – OUTSTANDING 999 1/75 SHARES | 20 110 533 90 | |
| SURPLUS | 1 432 219 93 | |
| UNREALIZED PROFIT ON SALE OF PROPERTIES DEPENDENT ON FUTURE OIL PRODUCTION | 23 510 63 | |
| TOTAL PER BOOKS | 26 566 294 46 | |
| CONTINGENT AND UNDETERMINED LIABILITIES REPORTED (SEE NOTES FOLLOWING) | | |
| TOTAL | | $ 43 910 145 38 |

77-8 Petition

## LIABILITIES

| | | |
|---|---|---|
| SECURED LIABILITIES: | | |
| NOTES PAYABLE - SECURED BY MORTGAGES ON DISTRIBUTING STATIONS MATURING $200 00 MONTHLY, APRIL 1933 TO DECEMBER 1936 - $3 000 00 YEARLY 1933-1941 | | $ 34 388 90 |
| ACCRUED AND GENERAL UNSECURED LIABILITIES: | | |
| ACCRUED LIABILITIES: | | |
| WAGES, SALARIES AND COMMISSIONS | $ 100 728 31 | |
| GASOLINE TAXES | 114 844 81 | |
| GROSS PRODUCTION TAXES | 2 997 96 | |
| PROPERTY AD VALOREM AND MISCELLANEOUS TAXES | 132 495 17 | |
| | 351 066 25 | |
| GENERAL ACCOUNTS PAYABLE: | | |
| CRUDE OIL PURCHASES | 75 150 51 | |
| OPERATING EXPENSES AND PURCHASES | 195 155 51 | |
| EMPLOYEES CREDIT BALANCES | 271 59 | |
| CUSTOMERS CREDIT BALANCES | 13 844 23 | |
| MERCHANDISE COUPONS AND CUSTOMERS CONTRACT DEPOSITS | 7 282 65 | |
| UNPRESENTED BANK CHECKS | 36 829 59 | |
| | 328 534 08 | |
| ROYALTIES ON PATENTED PROCESSING CONTRACTS WITHHELD - IN DISPUTE | 197 355 73 | |
| DUE SUBSIDIARY COMPANY - SOUTHERN ILLINOIS SERVICE STATION COMPANY | 3 532 34 | |
| DEBENTURE BONDS OF FORMER SUBSIDIARY COMPANY - ASSUMED- | 3 365 35 | |
| 6% CONVERTIBLE GOLD NOTES MATURING MARCH 1, 1933, OF WHICH $7 819 500 00 HAD BEEN EXTENDED BY AGREEMENT TO MARCH 1, 1937 WITH 7% PER ANNUM INTEREST | 10 000 000 00 | |
| INTEREST THEREON DUE MARCH 1, 1933 | 300 000 00 | |
| ACCOUNT DUE STANDARD GAS AND ELECTRIC COMPANY | 9 342 642 37 | 20 526 496 12 |
| RESERVES FOR LIABILITIES: | | |
| INCOME TAXES OF DEEP ROCK OIL AND REFINING COMPANY (AS RENTAL) | 127 056 73 | |
| WORKMEN'S COMPENSATION INJURY AND DAMAGE CLAIMS | 87 915 54 | |
| SUNDRY | 4 709 55 | 219 681 82 |
| TOTAL LIABILITIES AND RESERVES FOR LIABILITIES | | 20 780 566 74 |
| EXCESS OF ASSETS OVER LIABILITIES - SUBJECT TO VALUE OF INVESTMENTS IN NON-AFFILIATED AND SUBSIDIARY COMPANIES THE ADEQUACY OF RESERVES FOR DEPRECIATION AND DEPLETION AND LIABILITY FOR PRIOR YEARS FEDERAL INCOME TAXES AND CONTINGENT LIABILITIES (SEE BELOW) | | 23 129 878 64 |
| (REPRESENTED BY CAPITAL STOCK AND SURPLUS, PER BOOKS): | | |
| PREFERRED $7 00 CUMULATIVE - OUTSTANDING 50 000 SHARES - AT LIQUIDATING VALUE (UNPAID CUMULATIVE DIVIDENDS $758 333 33) | 5 000 000 00 | |
| COMMON, NO PAR VALUE - OUTSTANDING 599 475 SHARES | 20 110 533 90 | |
| SURPLUS | 1 432 249 93 | |
| UNREALIZED PROFIT ON SALE OF PROPERTIES - DEPENDENT ON FUTURE OIL PRODUCTION | 23 510 63 | |
| TOTAL PER BOOKS | 26 566 294 46 | |
| CONTINGENT AND UNDETERMINED LIABILITIES REPORTED. (SEE NOTES FOLLOWING) | | |
| TOTAL | | $ 43 910 145 38 |

DEEP ROCK OIL CORPORATION - IN RECEIVERSHIP

STATEMENT OF CONDITION, CONCLUDED.

NOTES:

(1) THE FEDERAL INCOME TAX AUTHORITIES MADE AN ASSESSMENT IN APRIL 1933 AGAINST THE COMPANY FOR FEDERAL INCOME TAXES FOR THE YEARS 1924 TO 1928 OF $1,686,877.92 INCLUDING INTEREST. THIS TAX AND INTEREST ARE CONTINGENT UPON FINAL DETERMINATION OF ALLOWANCES FOR DEPLETION AND DEPRECIATION AND LOSSES THROUGH ABANDONMENT OF PROPERTIES CLAIMED BY THE COMPANY, WHICH CLAIMS HAVE BEEN WHOLLY DISALLOWED BY THE INCOME TAX AUTHORITIES IN COMPUTING THE AMOUNT OF TAX ASSESSED. THE COMPANY HAS PENDING BEFORE THE FEDERAL INCOME TAX AUTHORITIES A CLAIM CONCERNING ALLOWANCES FOR DEPRECIATION AND DEPLETION AND LOSSES FOR ABANDONMENT OF PROPERTIES FOR THE YEARS PRIOR TO 1924, AND FINAL DETERMINATION OF FEDERAL INCOME TAX LIABILITY OF THE COMPANY FOR PRIOR YEARS, INCLUDING THOSE ASSESSED AND NOTED ABOVE, IS DEPENDENT ON THE CLAIMS NOW PENDING BEFORE THE INCOME TAX AUTHORITIES.

(2) THE COMPANY IS CONTINGENTLY LIABLE ON A GUARANTEE OF THE PROFIT PARTICIPATING CERTIFICATES OF THE DEEP ROCK OIL COMPANY OF WISCONSIN OUTSTANDING IN THE HANDS OF THE PUBLIC $98 391.15, AND IN CONNECTION WITH LITIGATION PENDING INVOLVING THE APPROXIMATE AMOUNT OF $35 000.00.

(3) THE COMPANY HAS A LIABILITY OF UNDETERMINED AMOUNT DUE AN AFFILIATED COMPANY, THE DEEP ROCK OIL AND REFINING COMPANY, UNDER THE TERMS OF A LEASE AGREEMENT WHEREBY THE PROPERTIES OF THE DEEP ROCK OIL AND REFINING COMPANY HAVE BEEN LEASED AND OPERATED SINCE OCTOBER 1, 1925 CONCERNING INTEREST CHARGES AND DEPRECIATION AND DEPLETION OF THE PROPERTIES LEASED, ON WHICH NO ACCOUNTING HAD BEEN MADE AS AT FEBRUARY 28, 1933.

Order No. 1.

Order Approving Petition of the Debtor, Deep Rock Oil Corporation, Filed Pursuant to Section 77b of the Bankruptcy Act.

This cause coming on to be heard on this the 19th day of June, 1934, upon the petition of the Debtor, Deep Rock Oil Corporation, this day filed herein pursuant to the provisions of Section 77b of the Bankruptcy Act; and the court having considered said petition and, being fully advised in the premises, finds that it is satisfied that the said petition complies with Section 77b of the Bankruptcy Act and that it has been filed in good faith.

It is therefore ordered that the said petition be, and it is hereby, approved as properly filed under Section 77b of the Bankruptcy Act.

Made and ordered entered on this the 19th day of June, 1934.

F. E. KENNAMER, District Judge.

Endorsed: Filed 12:08 p. m. June 19, 1934. H. P. Warfield, Clerk, U. S. District Court.

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Order No. 1.

Order Appointing Trustee.

This cause coming on to be heard on this the 19th day of June, A. D. 1934, upon the petition of the debtor, Deep Rock Oil Corporation, this day filed herein pursuant to the provisions of Section 77b of the Bankruptcy Act; and upon the answer of the alleged bankrupt, Deep Rock Oil Corporation, this day filed pursuant to the provisions of Section 77b of the Bankruptcy Act, to the petition in Bankruptcy heretofore filed in cause in Bankruptcy No. 1950, entitled "In the Matter of Deep Rock Oil Corporation, a corporation, alleged Bankrupt"; and it appearing that the court has found that it is satisfied that both the said petition and the said answer complies with Section 77b of the Bankruptcy Act and have been filed in good faith and that the said petition and the said answer have been approved as properly filed under Section 77b;

And the Debtor, Deep Rock Oil Corporation, being present in open court by its attorneys and, in open court, having

waived notice of the hearing upon the application for the appointment of a trustee and having consented to the appointment of a trustee under the provisions of Section 77b of the Bankruptcy Act, and it appearing that on the 2nd day of March, 1933, in equity cause No. 844 pending in the District Court of the United States for the Northern District of Oklahoma, entitled John L. Gray et al, plaintiffs, vs. Deep Rock Oil Corporation, defendant, receivers were appointed for the debtor, Deep Rock Oil Corporation, and of all of its properties of whatsoever kind and character situate and located in said district, and that said receivers have duly qualified and since that date have been in the possession of all of the properties and assets of the debtor in said district, and it further appearing that ancillary receivers have been appointed and have qualified and are in the possession of the properties and assets of the Debtor in the respective districts of their appointment, and it further appearing that pursuant to the terms of the various orders of appointment all of said receivers have been engaged in the operation of the business of the debtor, Deep Rock Oil Corporation, as a going concern; the court finds that no purpose will be subserved by the giving of notice to others, and therefore determines that no notice to others of the hearing upon the application for the appointment of a temporary trustee shall be given.

Whereupon the applications of the debtor for the appointment of a trustee under the provisions of Section 77b of the Bankruptcy Act came on for hearing, the debtor being present by its attorney, W. F. Semple, Esquire, and the receivers of Deep Rock Oil Corporation by appointment of this court in equity cause No. 844 entitled John L. Gray et al. vs. Deep Rock Oil Corporation, to-wit, H. N. Greis and E. H. Moore, being present in person and by their attorneys, Edgar A. de Meules, George S. Ramsey, Villard Martin and Garrett Logan, and the court being fully advised in the premises; finds that it is to the best interests of the debtor, of its creditors and of its stockholders that the debtor or its present receivers be not continued in the possession of the property and assets and that it is to the best interests of all concerned that a trustee be appointed to take possession of the property and assets of the debtor wherever located or situated, pursuant to Section 77b of the Bankruptcy Act:

It Is Therefore Further Ordered, Adjudged and Decreed:

(1) That H. N. Greis be, and he is hereby, appointed trustee of the estate of the debtor, Deep Rock Oil Corporation, pursuant to Section 77b of the Bankruptcy Act to act as such until the further order of the court, the said H. N. Greis as trustee aforesaid, upon the filing and approval of the bond hereinafter referred to, to have all the title to the property of the debtor, Deep Rock Oil Corporation, and to exercise all of the powers, as would a trustee appointed pursuant to Section 44 of the Bankruptcy Act; and, in addition thereto, to have the same powers as those exercised by a receiver in equity.

(2) That said H. N. Greis as trustee be, and he is hereby authorized,

(a) to continue, manage, operate and conduct the business of the debtor until the further order of this court, with full authority to carry on, manage, operate and conduct said business and to buy and sell merchandise, supplies or stock in trade for cash or on credit;

(b) in his discretion, to employ, pay and discharge from time to time such managers, agents, employees, servants, accountants, attorneys and counsel as he may in his judgment deem advisable or necessary in the management, conduct, control and custody of the affairs of the debtor and of the assets thereof; and to make such payments and disbursements as may be needful or proper for the preservation of the properties of the debtor, including payments of debts entitled to priority subject, however, to the approval of the court;

(c) to receive and collect the rents, incomes and profits of any and all of the properties of the debtor and to receive and collect any and all moneys due and owing to the debtor in any manner whatsoever whether the same are now or shall hereafter become due and payable;

(d) and to vote any and all shares of stock owned by the debtor in other corporations;

(e) to institute, prosecute, defend, compromise, adjust, intervene in or become party to such other actions or proceedings at law or in equity in State or Federal courts and in the courts of any foreign countries as may in his judgment be necessary or proper for the protection, maintenance and preservation of the assets of the debtor.

(3) That all creditors, stockholders and other persons be,

and they are hereby, enjoined from instituting or prosecuting, or continuing the prosecution of any actions or suits at law or in equity, or under any statute, against the debtor, and from levying any judgment, execution or other proceeding upon or against any of the properties of the debtor wherever located or situated; or from taking, or attempting to take, into their possession the said property, or any part thereof;

(4) That the said H. N. Greis, as trustee aforesaid, before entering upon his duties as such, shall give a bond to the United States of America with sufficient surety to be approved by the court in the sum of Fifty Thousand and no/100 ($50,000.00) Dollars, conditioned upon the faithful obeyance of all such orders as the court may make in relation to the trust and upon the faithful accounting for all of the moneys, assets and effects of the estate of the debtor which shall come into his hands and possession, and upon the faithful performance of all of his official duties as said trustee.

(5) That the said H. N. Greis, as such trustee, proceed forthwith to reduce to his possession all of the properties and assets of the debtor of whatsoever kind and character wherever located and situated, subject to the payment of reasonable administrative expense and allowances to be made in cause No. 844 Equity entitled John L. Gray et al., plaintiffs vs. Deep Rock Oil Corporation, defendant, pending in the District Court of the United States in and for the Northern District, and in all proceedings ancillary thereto; and, that all persons whomsoever now in possession of any of the property or assets of the debtor, upon the presentatiton of a certified copy of this order, shall forthwith deliver to said H. N. Greis, as trustee aforesaid, the possession of all of the property and assets of the debtor of whatsoever kind and character, now held by them, wherever located and situated.

(6) That the said H. N Greis, as trustee aforesaid, be, and he is hereby, directed to request the receivers by appointment in said equity cause No. 844 pending in the District Court of the United States for the Northern District of the State of Oklahoma, and all receivers in all proceedings ancillary thereto, forthwith to file in the courts of their respective appointments a final report and account of their actions as such receivers, preliminary to their final discharge by such courts.

(7) That the application herein filed for the appointment

of a permanent trustee pursuant to Section 77b of the Bankruptcy Act be, and it is hereby, set for hearing in the court room of the District Court of the United States for the Northern District of Oklahoma in the Federal Building at Tulsa, Oklahoma, on the 7th day of July, 1934, at the hour of ten o'clock A. M.

(8) That the debtor, Deep Rock Oil Corporation, give notice to all of the known creditors and to the stockholders of the debtor of the time and place of such hearing by depositing a written notice in the United States Post Office at Chicago, Illinois, in envelopes addressed to the last known address of said creditors and stockholders of the debtor with the necessary and proper postage attached thereto, at least ten days before the said 7th day of July, 1934; and by publication of such notice once a week for two successive weeks in the Chicago Tribune, a newspaper of general circulation, published at Chicago, Illinois.

Made and ordered entered on this the 19th day of June, 1934.

*F. E. KENNEMER*, District Judge.

Endorsed: 12:08 P. M., June 19, 1934. H. P. Warfield, Clerk.

Filed June 19, 1934.

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Proof of Debt Due Corporation.

At Chicago, in the Northern District of Illinois, on the 21st day of June, A. D. 1934, came J. J. Madden, of Chicago, in the County of Cook and State of Illinois, and made oath and says that he is Assistant Treasurer of Standard Gas and Electric Company, a corporation, incorporated by and under the laws of the State of Delaware and carrying on business at Chicago in the County of Cook and State of Illinois, and that he is duly authorized to make this proof, and says that the said Deep Rock Oil Corporation, the person by whom a petition for adjustment of its affairs under the provisions of Section 77-B of the Bankruptcy Act has been filed, was, at and before the filing of said petition, and still is, justly and truly indebted to Standard Gas and Electric Company in the sum of Nine Million, Three Hundred Forty-two Thousand, Six Hundred Forty-two Dollars and Thirty-seven Cents ($9,342,642.37), with interest thereon.

That the consideration for said debt is as follows: For moneys advanced to or for the account of said Deep Rock Oil Corporation, and for interest upon said moneys so advanced and unpaid.

That no part of said debt has been paid; that there are no set-offs or counterclaims to the same; that no part of the said claim has been reduced to judgment; that the said Standard Gas and Electric Company has not, nor has any person by its order, or to the knowledge or belief of said deponent for its use, had or received any manner of security for said debt whatsoever.

That the said claim arose in the manner, at the times, and for the considerations as follows: That on May 31, 1919, Shaffer Oil and Refining Company was organized under the laws of the State of Delaware and began operations in the State of Oklahoma and continued the same until March 31, 1930, when by proper authority its name was changed to Deep Rock Oil Corporation, and since said time all of said operations have continued under that name; that Deep Rock Oil Corporation, the petitioner in the above-entitled cause, was and is indebted to said Standard Gas and Electric Company in the principal sum of Nine Million, Three Hundred Forty-two Thousand, Six Hundred Forty-two Dollars and Thirty-seven Cents ($9,342,642.37), with interest thereon from February 28, 1933, at the rate of six per cent (6%) per annum; that the said amount so due and payable is and represents the balance of accounts between Standard Gas and Electric Company and Deep Rock Oil Corporation for a period beginning June 1, 1919, and ending February 28, 1933, during all of which period mutual accounts of transactions by and between the said Standard Gas and Electric Company and said Deep Rock Oil Corporation were kept and represented the mutual transactions between said corporations; during all of which time sums of money were advanced by Standard Gas and Electric Company to said Deep Rock Oil Corporation, and sums paid for them by Standard Gas and Electric Company and for all of which charges were made by Standard Gas and Electric Company, and that during all of said period credits arose in favor of Deep Rock Oil Corporation by reason of payments in cash or other considerations passing from said Deep Rock Oil Corporation to Standard Gas and Electric Company, for all of which due and proper credit was given upon the said mutual

account by Standard Gas and Electric Company and that as a complete and final balance of all of said transactions there arose and still exists the said balance in favor of Standard Gas and Electric Company of Nine Million, Three Hundred Forty-two Thousand Six Hundred Forty-two Dollars and Thirty-seven Cents ($9,342,642.37) with accruing interest thereon; that no part of the said amount has been paid and that there were and are no just credits, deductions or set-offs against the same; that there is justly due to Standard Gas and Electric Company from said Deep Rock Oil Corporation the said sum of Nine Million, Three Hundred Forty-two Thousand, Six Hundred Forty-two D llars and Thirty-seven Cents ($9,342,642.37) with interest thereon at the rate of six per cent (6%) per annum from the 28th day of February, 1933; that this claim is made pursuant to the provisions of an order in respect of claims entered in the above-entitled cause on the .. day of June, 1934, and that this claim is filed in pursuance of leave of court heretofore had and obtained in this cause; that the correct post-office address of said claimant, Standard Gas and Electric Company, for the purpose of this claim is in care of deponent at 231 South La Salle Street, Chicago, Illinois; that the making or filing of this claim in the form and by the terms of this instrument shall in no wise impair or prejudice the right which is hereby expressly reserved to said claimant, Standard Gas and Electric Company, to make any other, further, supplemental, amendatory or additional claim or claims or instrument or instruments setting forth the particulars of this claim against said Deep Rock Oil Corporation in the above-entitled cause on or before said date as may be fixed by said court for the filing of original or supplemental claims in said cause and to present such other lawful evidence of any kind, written or oral, in support of this claim or any other claim.

That the said balance of account is due to Standard Gas and Electric Company from Deep Rock Oil Corporation arising out of the following transactions; that is to say, that during all of the period from June 1, 1919, to and including February 28, 1933, Standard Gas and Electric Company loaned to Deep Rock Oil Corporation in cash the sum of Seventeen Million Four Hundred Seventy-three Thousand Four Hundred Seventy-eight Dollars and Five Cents ($17,473,478.05); that during said period Standard Gas and Electric Company advanced to or for said Deep Rock Oil Corporation to be used in

payment of interest upon its funded debt, the sum of Three Million Ninety-six Thousand Three Hundred Sixty Dollars ($3,096,360.00); that during said period Standard Gas and Electric Company advanced to or for said Deep Rock Oil Corporation, as sinking fund requirements under its note and bond issues, the sum of Three Million Eight Hundred Eighty-six Thousand Six Hundred Sixty-six Dollars and Eighty-two Cents ($3,886,666.82); That during said period Standard Gas and Electric Company paid for the account of Deep Rock Oil Corporation its certain notes in the sum of Two Hundred Thousand Dollars ($200,000); that during said period Standard Gas and Electric Company paid as interest upon notes of Deep Rock Oil Corporation discounted for it by Standard Gas and Electric Company the sum of Forty-nine Thousand Five Hundred One Dollars and Fifty-three Cents ($49,501.53); that during said period Standard Gas and Electric Company advanced to or for Deep Rock Oil Corporation to be used by it for the payment of dividends upon preferred stock of said corporation held by the public, the sum of Two Million Five Hundred Forty-two Thousand Five Hundred Nineteen Dollars ($2,542,519.00); that during said period Standard Gas and Electric Company advanced to or for said Deep Rock Oil Corporation to be used by it for the payment of dividends on common stock, the sum of One Hundred Two Thousand Five Hundred Seventy-six Dollars ($102,576.00); that during said period Standard Gas and Electric Company paid for said Deep Rock Oil Corporation in redemption of 8% notes of said corporation due in 1941 the sum of Two Hundred Forty-five Thousand Three Hundred Twenty-two Dollars ($245,322.00); that in the year 1926 Standard Gas and Electric Company paid for Deep Rock Oil and Refining Company federal income tax in the sum of Twenty-nine Thousand Five Hundred Sixty-five Dollars and Ninety-one Cents ($29,565.91), which said sum Deep Rock Oil Corporation was obligated to pay; that during said period Standard Gas and Electric Company paid for said Deep Rock Oil Corporation its note in favor of Continental National Bank and Trust Company in the sum of Three Hundred Ninety-five Thousand Seven Hundred Eighteen Dollars and Forty-two Cents ($395,718.42); that during said period Standard Gas and Electric Company redeemed for said Deep Rock Oil Corporation certain six per cent bonds due in 1929 with interest and premium in the sum of One Million Nine Hundred Twenty-two Thousand One Hundred Ten

Dollars and Twenty-three Cents ($1,922,110.23); that during said period at the request of Deep Rock Oil Corporation and for its account Standard Gas and Electric Company purchased for it eleven thousand (11,000) shares of preferred stock of Utility and Industrial Corporation and paid therefor and for the account of said Deep Rock Oil Corporation the sum of Two Hundred Seventy-seven Thousand Four Hundred Seventy-five Dollars ($277,475.00); that during said period Standard Gas and Electric Company in the year 1932 paid to H. M. Byllesby and Company as compensation for services in procuring the deposit of Shaffer Oil and Refining Company's 6% notes of 1933, deposited under an extension agreement, the sum of One Hundred Forty-three Thousand Four Hundred Twenty-five Dollars ($143,425.00); that during all of said period and upon various accounts for the benefit of said Deep Rock Oil Corporation, Standard Gas and Electric Company paid and advanced as cash upon obligations of said company the sum of One Million Eighty-seven Thousand Five Hundred Sixty-nine Dollars and Fifty-seven Cents ($1,087,569.57); that there accrued during said period as indebtedness due to Standard Gas and Electric Company from Deep Rock Oil Corporation upon sundry obligations of said company the following sums:

| | |
|---|---|
| Interest upon open account balances | $4,819,322.07 |
| Interest on notes receivable | 184,087.93 |
| Interest on five-year 6% notes owned by Standard Gas and Electric Company | 331,500.00 |
| Dividends on preferred stock | 1,555,981.00 |
| Dividends on common stock | 1,946,672.00 |

that during all of said period Standard Gas and Electric Company assumed and paid for the benefit of Deep Rock Oil Corporation the following sums:

| | |
|---|---|
| To Byllesby Engineering and Management Corporation: | |
| Sundry charges | $ 230,463.16 |
| Supervision fee | 1,219,034.83 |
| To H. M. Byllesby and Company, a balance of | 752,647.10 |
| To Blue Ridge Oil and Gas Company | 42,750.00 |
| To Oklahoma Gas and Electric Company | 20,600.05 |

and allowed a credit on account of transactions with Toltec Oil Company to said Deep Rock Oil Corporation of a balance in the sum of..... 1,773.66

Amount due as rentals to Deep Rock Oil and Refining Company..... 4,525,000.00

That during the said period Standard Gas and Electric Company performed other services for Deep Rock Oil Corporation and made charges therefor as follows, to-wit:

For sale of Shaffer Oil and Refining Company 8% Notes of 1923 to Deep Rock Oil Corporation .....$ 451,237.33

For acquisition of common stock of Home Oil Company for account of Deep Rock Oil Corporation ..... 175,000.00

for which Shaffer Oil and Refining Company 8's of 1941 were received in payment in the sum of $175,000.00, balancing said charge.

For the transfer of open account of J. C. Kennedy, Trustee, to Deep Rock Oil Corporation the sum of..... 649,999.00

all of which was paid by acquisition of 8,325 shares of common stock of Deep Rock Oil and Refining Company from Deep Rock Oil Corporation at the price of $649,999.00, thereby balancing said charge.

For transfer of notes receivable of Deep Rock Oil Corporation to open account.....$ 750,000.00

For amount paid for retirement of Shaffer Oil and Refining Company five year 6% notes 4,250,000.00

or a total of debits of .....52,529,709.34

That during all of said period Standard Gas and Electric Company received from Deep Rock Oil Corporation the following sums and property for all of which credit was duly and properly given to Deep Rock Oil Corporation, to-wit:

For cash received on account.....$4,403,414.32

Interest on open accounts..... 922,432.83

Notes receivable..... 21,666.67

Notes receivable discounted..... 19,716.69

For rentals due under lease of Deep Rock Oil and Refining Company..... 500,000.00

| | |
|---|---|
| Reimbursement for sundry expenditures made for Deep Rock Oil Corporation | 622,754.43 |
| Miscellaneous cash receipts | 23,812.85 |
| Reimbursement of advance for dividends on preferred stock | 927,500.00 |
| Proceeds from sale of $10,000,000.00 face value Shaffer Oil and Refining Company 6% Notes due in 1933 | 9,395,151.80 |
| Less—Deposit for redemption of $7,500,000 face value of Shaffer Oil and Refining Company 6% Notes due in 1928 | 7,727,075.45 |
| Upon notes payable of the face value of $200,000 discounted by Standard Gas and Electric Company | 195,783.33 |

On notes, bonds and stock received from Deep Rock Oil Corporation, as follows:

| | |
|---|---|
| For sale of Shaffer Oil and Refining Company 8% Notes, 1923 and 1924, to H. M. Byllesby and Company for account of Deep Rock Oil Corporation | $ 296,700.00 |
| For Deep Rock Oil Corporation note in favor of Bradstreet Oil Company issued for account of Standard Gas and Electric Company for property for J. C. Kennedy, Trustee | 150,000.00 |

For purchase of securities of Shaffer Oil and Refining Company the following sums:

| | |
|---|---|
| For $100,500.00 face value 6% Bonds due 1929 | $ 80,641.20 |
| For 222,448 shares of common stock of Shaffer Oil and Refining Company | 11,122,400.00 |
| For 80,000 shares of preferred stock | 7,223,333.33 |
| For $7,500,000.00 face value of 6% notes due 1928 | 7,273,750.00 |
| For $4,250,000 face value of 6% gold notes | 4,080,000.00 |
| For $1,057,300 face value of 8% serial notes due 1923 and 1924 | 964,627.31 |
| For notes issued payable to Standard Gas and Electric Company | 750,000.00 |
| For miscellaneous expenditures for account of Standard Gas and Electric Company | 45,865.55 |

For extensions and additions to properties of Deep Rock Oil and Refining Company..... 1,894,592.11

making a total of credit to Deep Rock Oil Corporation and extended to it by Standard Gas and Electric Company of.....$43,187,066.97

and that by application of the said credits to the aforesaid charges made by Standard Gas and Electric Company against Deep Rock Oil Corporation, there remains a balance due to Standard from Deep Rock Oil Corporation of.....$9,342,642.37

as aforesaid.

That there is attached hereto in three sheets and made a part hereof, marked Exhibit A, a true and complete account of the said charges and credits analyzed and distributed by years during all of the said period from June 1, 1919, to February 28, 1933, which account is made a part hereof as fully as if herein set out at length and that the said account so attached represents truly and correctly the above claim of Standard Gas and Electric Company against Deep Rock Oil Corporation as hereinabove set out.

That in the early part of the year 1928, the officers and directors of Deep Rock Oil Corporation concluded that it was necessary to refinance the said corporation by the issuance of $10,000,000 par value of 6% Convertible Gold Notes, to bear date as of March 1, 1928, and to become due on March 1, 1933, and to sell the same to the public, and out of the proceeds to retire indebtedness of the Company then outstanding and owned by the public, consisting of $1,843,700 par value of First Mortgage 6% Sinking Fund Convertible Gold Bonds due June 1, 1929, and $7,500,000 par value of Two-Year 6% Gold Notes due April 15, 1928.

That at a meeting of the directors of Deep Rock Oil Corporation held on the 11th day of April, 1928, at which meeting John L. Gray and L. B. Riddle, who were then directors of Deep Rock Oil Corporation, were present and in which they actively participated, the Chairman of said meeting stated to the meeting that the Corporation was indebted to Standard Gas and Electric Company in the amount of $11,122,400, of which $4,250,000 was represented by 6% Gold Notes of the Company due December 31, 1931, and the remainder, $6,872,400, was due on open account. The Chairman stated to the said meeting that Standard Gas and Electric Company had offered to pur-

chase from the Company 222,448 shares of the common stock of the Company and in payment for the same to release and cancel the said indebtedness of $11,122,400.

The matter was fully discussed and a resolution duly offered, considered and unanimously adopted, by which resolution the Company authorized the sale to Standard Gas and Electric Company of 222,448 shares of its common stock at and for the sum of $11,122,400.

That in pursuance of the said resolution the said common stock, consisting of 222,448 shares, was issued to Standard Gas and Electric Company and the purchase price thereof, $11,122,400, was credited upon the indebtedness due from Deep Rock Oil Corporation to Standard Gas and Electric Company.

That at the same meeting of the Board of Directors of Deep Rock Oil Corporation, the Chairman of the meeting also submitted a proposition of Standard Gas and Electric Company, which was then the owner of 90,000 shares of Convertible Preferred 7% Cumulative Stock of Deep Rock Oil Corporation of the par value of $9,000,000, to exchange the same by surrendering it to the Company and taking in lieu thereof 180,000 shares of the common stock of the Company, thereby reducing the preferred stock outstanding to 50,000 shares. That the said resolution was duly considered and unanimously adopted and thereafter the said shares of stock so authorized to be issued were issued to Standard Gas and Electric Company and the 90,000 shares of Convertible Preferred Stock so offered to be surrendered by it were surrendered to the Deep Rock Oil Corporation.

That prior to the issuance of the said two blocks of common stock, Standard Gas and Electric Company was the owner of 158,000 shares of the common stock of Deep Rock Oil Corporation out of a total of such stock outstanding of 177,552 shares and that 19,552 shares of said common stock were held by others, including John L. Gray and L. B. Riddle and other officers of the corporation.

That by the issuance of said two blocks of stock, the outstanding common capital stock of Deep Rock Oil Corporation was increased to 580,000 shares, of which Standard Gas and Electric Company held all except the said 19,552 shares.

That by the acquisition of the said stock so issued on or about April 12, 1928, amounting altogether to 402,448 shares, Standard Gas and Electric Company did not substantially enlarge its

interest in Deep Rock Oil Corporation, and that the said transaction amounted in substance to a donation to Deep Rock Oil Corporation, and a voluntary cancellation by Standard Gas and Electric Company of indebtedness justly due it, to the amount of $20,222,400; and said transaction constituted and was a complete settlement between said Deep Rock Oil Corporation and Standard Gas and Electric Company of the amount then owing from Deep Rock Oil Corporation to Standard Gas and Electric Company and the payment and satisfaction thereof to the extent of $11,222,400, and a further decrease of the obligations of Deep Rock Oil Corporation by the surrender of said preferred stock to the amount of $9,000,000, and thereby the value of the estate of Deep Rock Oil Corporation for the protection of the holders of the said $10,000,000 of 6% Convertible Gold Notes and the holders of preferred stock was correspondingly increased, and the sale of said notes and the consequent maintenance of the credit of the corporation were thereby made possible. That all of the said $10,000,000 par value of 6% Convertible Gold Notes were sold subsequent to the application of the said credit of $11,222,400 and subsequent to the purchase of the said common stock.

That thereafter on or about the first day of March, 1930, a dividend upon the common stock of Deep Rock Oil Corporation was duly declared by its officers out of surplus and profits available for dividends and that of such dividend there was paid to Standard Gas and Electric Company as its proportionate share, the sum of $980,910.00. That such payment was made in the form of a check issued by Deep Rock Oil Corporation but that Standard Gas and Electric Company immediately thereafter applied the said check to the purchase price of additional common stock of Deep Rock Oil Corporation to the amount of 18,684 shares at the rate of $52.50 per share and that said Standard Gas and Electric Company thereby again contributed to the strengthening of the capital structure of Deep Rock Oil Corporation.

J. J. MADDEN,
Assistant Treasurer of Standard Gas and Electric Company, said corporation.

Subscribed and sworn to before me this 21st day of June, 1934. C. M. Mader, Notary Public. My commission expires May 10, 1937. (Seal)

Endorsed: Filed 9:26 A. M., June 22, 1934. H. P. Warfield.

(Exhibit A of Standards Claim)

STANDARD GAS AND ELECTRIC COMPANY

ANALYSIS OF OPEN ACCOUNT WITH DEEP ROCK OIL CORPORATION (FORMERLY SHAFFER OIL AND REFINING COMPANY)
FOR THE PERIOD FROM JUNE 1, 1919, TO FEBRUARY 28, 1933

| CHARGES | TOTAL | JANUARY 1 TO FEBRUARY 28, 1933 | 1932 | 19 |
|---|---|---|---|---|
| CASH ADVANCES: | | | | |
| On account, | $17,473,478.05 | | | |
| Interest on funded debt, | 3,096,360.00 | | | $ 600, |
| Sinking fund requirements, | 3,886,666.82 | | | |
| Payment of Deep Rock Oil Corporation note discounted by Standard Gas and Electric Company, | 200,000.00 | | | 100, |
| Payment of interest on Deep Rock Oil Corporation notes discounted by Standard Gas and Electric Company, | 49,501.53 | | | |
| Dividends on preferred stock held by public, | 2,542,519.00 | | | 85, |
| Dividends on common stock, | 102,576.00 | | | |
| Redemption of 8% notes due 1941, | 245,322.00 | | | |
| Payment of Federal income tax - Deep Rock Oil and Refining Company, | 29,565.91 | | | |
| Payment of Deep Rock Oil Corporation note in favor of Continental National Bank and Trust Company less unearned interest, | 395,718.42 | | | |
| Redemption of Shaffer Oil and Refining Company 6% bonds, due 1929, plus interest, premium, etc., | 1,922,110.23 | | | |
| Purchase of 11,000 shares of Utility and Industrial Corporation preferred stock for account of Deep Rock Oil Corporation, | 277,475.00 | | | |
| Compensation paid H. M. Byllesby & Company for services in procuring deposit of Shaffer Oil and Refining Company 6% notes of 1933 under extension agreement, | 143,425.00 | | $ 143,425.00 | |
| Sundry expenditures, | 1,087,569.57 | $ 4,241.42 | 39,984.50 | 2, |
| INCOME TO STANDARD GAS AND ELECTRIC COMPANY: | | | | |
| Interest on open account balances, | 4,819,222.07 | 111,250.10 | 620,581.70 | 51, |
| Interest on notes receivable, | 184,087.93 | | | |
| Interest on 5-year 6% notes owned by Standard Gas and Electric Company, | 331,500.00 | | | |
| Dividends on preferred stock, | 1,555,981.00 | | | |
| Dividends on common stock, | 1,946,672.00 | | | |
| FORWARD, | $40,289,750.53 | $ 115,491.52 | $ 803,991.20 | $1,32 |

| YEAR ENDED DECEMBER 31, | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1932 | 1931 | 1930 | 1929 | 19 | 1927 | 1926 | 19 | 1924 |
| | | $ 725,000.00 | $ 500,000.00 | $ 188,000.00 | $2,334,592.82 | $ 388,500.00 | $ 84540.40 | $ 4,663,244.8 |
| | $ 600,000.00 | 600,000.00 | 600,000.00 | | 637,113.00 | 225,000.00 | 20567.00 | 224,580.0 |
| | | | | | 1,713,333.34 | | 766.66 | 766,666.6 |
| | 100,000.00 | | | | | | | |
| | | 6,066.68 | 6,066.68 | 6,066.68 | 6,066.68 | 6,050.01 | 066.66 | 6,267.1 |
| | 85,804.25 | 343,217.00 | 341,467.00 | 336,217.00 | 1,267,705.25 | 168,108.50 | | |
| | | | 29,328.00 | | 73,248.00 | | | |
| | | | | | | 245,322.00 | | |
| | | | | | | 29,565.91 | | |
| | | | | | | 395,718.42 | | |
| | | | | 1,922,110.23 | | | | |
| | | | 277,415.00 | | | | | |
| $ 143,425.00 | | | | | | | | |
| 39,984.50 | 24,785.36 | 186,357.99 | 140,571.96 | 145,061.11 | 250,700.42 | 153,779.64 | 20359.15 | 39,330.3 |
| 620,581.70 | 516,288.03 | 351,707.73 | 199,761.41 | 166,302.81 | 158,016.16 | 386,870.68 | 1,081828.70 | 822,332.4 |
| | | | | | | | 51833.34 | 60,999.3 |
| | | | | 72,958.33 | 258,541.67 | | | |
| | 1,695.75 | 6,783.00 | 8,533.00 | 349,783.00 | 867,294.75 | 321,891.50 | | |
| | | | 840,672.00 | | 1,106,000.00 | | | |
| $ 803,991.20 | $1,328,573.39 | $2,219,132.40 | $2,943,875.05 | $ 3,186,499.16 | $8,672,612.09 | $ 2,320,806.66 | $ 2,985,561.91 | $ 6,583,420.3 |

| 1925 | 1924 | 1923 | 1922 | 1921 | 1920 | JUNE 1 TO DECEMBER 31, 1919 |
|---|---|---|---|---|---|---|
| 49,140.40 | $ 4,663,244.83 | $5,970,000.00 | $1,625,000.00 | $ 230,000.00 | | |
| 09,667.00 | 224,580.00 | | | | | |
| 66,666.66 | 766,666.66 | | | 640,000.16 | | |
| | | 100,000.00 | | | | |
| 6,066.66 | 6,267.17 | 6,850.97 | | | | |
| 20,359.15 | 39,330.50 | 10,128.76 | 6,165.45 | 9,909.86 | $12,742.65 | $43,450.80 |
| 31,828.70 | 822,332.65 | 306,637.01 | 57,865.97 | 39,779.12 | 204.49(RED) | 204.49 |
| 51,833.34 | 60,999.02 | 60,833.35 | 10,422.22 | | | |
| 15,561.91 | $ 6,583,420.83 | $6,454,450.09 | $1,699,453.64 | $ 919,689.14 | $12,538.16 | $43,655.29 |

STANDARD GAS AND ELECTRIC COMPANY
ANALYSIS OF OPEN ACCOUNT WITH DEEP ROCK OIL CORPORATION, ETC.

| CHARGES | TOTAL | JANUARY 1 TO FEBRUARY 28, 1933 | 1932 | |
|---|---|---|---|---|
| FORWARD, | $40,289,750.53 | $ 115,491.52 | $ 803,991.20 | $1, |
| ASSUMPTION OF OPEN ACCOUNTS DUE OTHER COMPANIES: | | | | |
| Byllesby Engineering and Management Corporation: | | | | |
| Sundry charges, | 230,463.16 | | 796.22 | |
| Supervision fee, | 1,219,034.83 | | | |
| H. M. Byllesby & Company, | 752,647.10 | | | |
| Blue Ridge Oil and Gas Company, | 42,750.00 | | | |
| Oklahoma Gas and Electric Company, | 20,600.05 | | | |
| Toltec Oil Company, | 1,773.66 (RED) | | | |
| Deep Rock Oil and Refining Company - Rentals, | 4,525,000.00 | 100,000.00 | 600,000.00 | |
| OTHER: | | | | |
| Sale of Shaffer Oil and Refining Company 8's of 1923 to company, | 451,237.33 | | | |
| Acquisition of common stock of Home Oil Company for account of Deep Rock Oil Corporation, | 175,000.00 | | | |
| Shaffer Oil and Refining Company 8's of 1941 received in payment for acquisition of Home Oil Company common stock, | 175,000.00 (RED) | | | |
| Transfer of J. C. Kennedy, Trustee, open account to Deep Rock Oil Corporation, | 649,999.00 | | | |
| Acquisition of 8,325 shares of common stock of Deep Rock Oil and Refining Company from Deep Rock Oil Corporation, | 649,999.00 (RED) | | | |
| Transfer of notes receivable to open account, | 750,000.00 | | | |
| Retirement of Shaffer Oil and Refining Company 5-year 6% notes, | 4,250,000.00 | | | |
| Total debits, | $52,529,709.34 | $ 215,491.52 | $1,404,787.42 | $2 |
| Total credits - (Forward), | 43,187,066.97 | 218,163.81 | 336,393.18 | |
| EXCESS (DEFICIENCY) OF CHARGES OVER CREDITS, | $ 9,342,642.37 | $ 2,672.29 (RED) | $1,068,394.24 | $1 |
| BALANCE AT END OF THE PERIOD, | | $9,342,642.37 | $9,345,314.66 | $8 |

| 1932 | 1931 | 1930 | 1929 | 1928 | 1927 | 1926 | 1925 |
|---|---|---|---|---|---|---|---|
| | | | | YEAR ENDED DECEMBER 31, | | | |
| $ 803,991.20 | $1,328,573.39 | $2,219,132.40 | $2,943,875.05 | $ 3,186,499.16 | $8,672,612.09 | $ 2,320,806.66 | $ 2,985,561.91 |
| 796.22 | | | | | 2,703.32(RED) | 2,703.32 | 3,051.27 |
| | 100,000.00 | 200,000.00 | 200,000.00 | 220,000.00 | | 300,000.00 | |
| | 8.40(RED) | | 500.00 | 500.00(RED) | | 44,700.00 | 33,081.73 |
| | | | | | 75.70 | 103.42(RED) | 1,657.10(RED) |
| 600,000.00 | 600,000.00 | 600,000.00 | 600,000.00 | 600,000.00 | 600,000.00 | 825,000.00 | |
| | | | | | | | 649,999.00 |
| | | | | | | | 649,999.00(RED) |
| | | | | | | | 750,000.00 |
| | | | | 4,250,000.00 | | | |
| $1,404,787.42 | $2,028,564.99 | $3,019,132.40 | $3,744,375.05 | $ 8,255,999.16 | $9,269,984.47 | $ 3,493,106.56 | $ 3,770,037.81 |
| 336,393.18 | 205,339.03 | 509,356.99 | 487,962.40 | 13,847,680.98 | 659,470.72 | 20,415,952.57 | 3,015,997.29 |
| $1,068,394.24 (RED) | $1,823,225.96 | $2,509,775.41 | $3,256,412.65 | $ 5,591,681.82(RED) | $8,610,513.75 | $16,922,846.01(RED) | $ 754,040.52 |
| $9,345,314.66 | $8,276,920.42 | $6,453,694.46 | $3,943,919.05 | $ 687,506.40 | $6,279,188.22 | $ 2,331,325.53(RED) | $14,591,520.48 |

| 1925 | 1924 | 1923 | 1922 | 1921 | 1920 | JUNE 1 TO DECEMBER 31, 1919 |
|---|---|---|---|---|---|---|
| ,985,561.91 | $ 6,583,420.83 | $6,454,450.09 | $1,699,453.64 | $ 919,689.14 | $12,538.16 | $43,655.29 |
| 3,051.27 | 24,530.27 | 20,029.84 | 113,876.87 | 57,841.28 | 1,991.85 | 8,345.56 |
| | 100,000.00 | | | 99,034.83 | | |
| 33,081.73 | 2,206.21(RED) | 938.37 | 148,879.58 | 524,441.68 | 2,750.02 | 70.33 |
| | | | 42,750.00 | | | |
| | 6,600.05 | | 14,000.00 | | | |
| 1,657.10(RED) | 88.84(RED) | | | | | |
| | | | 451,237.33 | | | |
| | 175,000.00 | | | | | |
| | 175,000.00(RED) | | | | | |
| 649,999.00 | | | | | | |
| 649,999.00(RED) | | | | | | |
| 750,000.00 | | | | | | |
| ,770,037.81 | $ 6,712,256.10 | $6,475,418.30 | $2,470,197.42 | $1,601,006.93 | $17,280.03 | $52,071.18 |
| ,015,997.29 | 175,899.88 | 750,000.00 | 1,579,522.90 | 916,448.80 | 20,964.83 | 47,913.59 |
| 754,040.52 | $ 6,536,356.22 | $5,725,418.30 | $ 890,674.52 | $ 684,558.13 | $ 3,684.80(RED) | $ 4,157.59 |
| ,591,520.48 | $13,837,479.96 | $7,301,123.74 | $1,575,705.44 | $ 685,030.92 | $ 472.79 | $ 4,157.59 |

STANDARD GAS AND ELECTRIC COMPANY
ANALYSIS OF OPEN ACCOUNT WITH DEEP ROCK OIL CORPORATION, ETC.

| CREDITS | TOTAL | JANUARY 1 TO FEBRUARY 28 1933 |
|---|---|---|
| **CASH RECEIVED:** | | |
| On account, | $ 4,403,414.32 | $ 12.12 |
| Interest: | | |
| Open accounts, | 922,432.83 | 111,250.1 |
| Notes receivable, | 21,666.67 | |
| Notes receivable discounted, | 19,716.69 | |
| Deep Rock Oil and Refining Company - Rentals, | 500,000.00 | 100,000.0 |
| Reimbursement for sundry expenditures, | 622,754.43 | 6,901.5 |
| Miscellaneous cash receipts, | 23,812.85 | |
| Reimbursement for advance for dividends on preferred stock, | 927,500.00 | |
| Proceeds from sale of $10,000,000.00 face value Shaffer Oil and Refining Company 6% notes, due 1933, | 9,395,151.80 | |
| Less - Deposit for redemption of $7,500,000.00 face value Shaffer Oil and Refining Company 6% notes, due 1928, | 7,727,075.45(RED) | |
| Notes payable, face value $200,000.00, discounted by Standard Gas and Electric Company, | 195,783.33 | |
| **NOTES, BONDS, AND STOCK RECEIVED:** | | |
| Sale of Shaffer Oil and Refining Company 8% notes, 1923 and 1924, to H. M. Byllesby & Company for account of Deep Rock Oil Corporation, | 296,700.00 | |
| Deep Rock Oil Corporation note in favor of Bradstreet Oil Company issued for account of Standard Gas and Electric Company for property for J. C. Kennedy, Trustee, | 150,000.00 | |
| Purchase of securities of Shaffer Oil and Refining Company: | | |
| $100,500.00 face value 6% bonds, due 1929, | 80,641.20 | |
| 222,448 shares common stock, | 11,122,400.00 | |
| 80,000 shares preferred stock, | 7,223,333.33 | |
| $7,500,000.00 face value 6% notes, due 1928, | 7,273,750.00 | |
| $4,250,000.00 face value 6% gold notes, | 4,080,000.00 ✓ | |
| $1,057,300.00 face value 8% serial notes, due 1923 and 1924, | 964,627.31 | |
| Notes payable issued to Standard Gas and Electric Company, | 750,000.00 | |
| MISCELLANEOUS EXPENDITURES MADE FOR ACCOUNT OF STANDARD GAS AND ELECTRIC COMPANY, | 45,865.55 | |
| EXTENSIONS AND ADDITIONS TO PROPERTIES OF DEEP ROCK OIL AND REFINING COMPANY, | 1,894,592.11 | |
| TOTAL CREDITS, | $43,187,066.97 | $218,163.9 |

| AL | JANUARY 1 TO FEBRUARY 28, 1933 | 1932 | 1931 | 1930 | 1929 | YEAR ENDED DECEMBER 1928 | 1927 | 1926 |
|---|---|---|---|---|---|---|---|---|
| 14.32 | $ 12.12 | $100,000.00 | $200,000.00 | $300,000.00 | $300,000.00 | $ 450,000.00 | $253,592.82 | $ 1,258,500.0 |
| 32.83 | 111,250.10 | 109,318.83 | | | | 21,317.90 | | 188,023.1 |
| 66.67 | | | | | | | | |
| 16.69 | | | | | | 7,583.35 | 4,550.01 | 4,533.3 |
| 00.00 | 100,000.00 | 100,000.00 | | | | 300,000.00 | | |
| 54.43 | 6,901.59 | 27,074.35 | 4,382.32 | 31,914.24 | 80,049.01 | 103,303.38 | 156,327.89 | 142,396.1 |
| 12.85 | | | 956.71 | 2,442.75 | 20,413.39 | | | |
| 00.00 | | | | 175,000.00 | 87,500.00 | 175,000.00 | 245,000.00 | 245,000.0 |
| 51.80 | | | | | | 9,395,151.80 | | |
| 75.45 | (RED) | | | | | 7,727,075.45(RED) | | |
| 83.33 | | | | | | | | |
| 00.00 | | | | | | | | |
| 00.00 | | | | | | | | |
| 41.20 | | | | | | | | |
| 00.00 | | | | | | 11,122,400.00 | | |
| 33.33 | | | | | | | | 7,223,333.3 |
| 50.00 | | | | | | | | 7,273,750.0 |
| 00.00 | ✓ | | | | | | | 4,080,000.0 |
| 27.31 | | | | | | | | |
| 00.00 | | | | | | | | |
| 65.55 | | | | | | | | 416.6 |
| 92.11 | | | | | | | | |
| 66.97 | $218,163.81 | $336,393.18 | $205,339.03 | $509,356.99 | $487,962.40 | $13,847,680.98 | $659,470.72 | $20,415,952.5 |

| ...BER 31,... | 1925 | 1924 | 1923 | 1922 | 1921 | 1920 | JUNE 1 TO DECEMBER 31, 1919 |
|---|---|---|---|---|---|---|---|
| 0.00 | $ 546,723.75 | $175,899.88 | $600,000.00 | $ 200,000.00 | | $ 8,271.58 | $10,414.17 |
| 3.10 | 492,522.90 | | | | | | |
| | 21,666.67 | | | | | | |
| 3.34 | 3,049.99 | | | | | | |
| 6.12 | 11,993.00 | | | | $ 8,219.86 | 12,693.25 | 37,499.42 |
| 0.00 | | | | | | | |
| | | | | 195,783.33 | | | |
| | | | | 296,700.00 | | | |
| | | | 150,000.00 | | | | |
| | | | | | 80,641.20 | | |
| 3.33 | | | | | | | |
| 0.00 | | | | | | | |
| 0.00 | | | | | | | |
| | | | | 137,039.57 | 827,587.74 | | |
| | | | | 750,000.00 | | | |
| 6.68 | 45,448.87 | | | | | | |
| | 1,894,592.11 | | | | | | |
| 2.57 | $3,015,997.29 | $175,899.88 | $750,000.00 | $1,579,522.90 | $916,448.80 | $20,964.83 | $47,913.59 |

Order No. 7.

Now on this 22nd day of June, 1934, the above-entitled matter came on for hearing upon the application of Standard Gas and Electric Company for permission to file proof of its claim against Deep Rock Oil Corporation herein, the court being advised in the premises, doth grant the said permission, and thereupon the said Standard Gas and Electric Company forthwith filed its verified proof of debt.

And thereafter and on the same day H. N. Greis, the Trustee herein appointed, files objections to the allowance of the said claim. And it appearing to the court that there are issues to be determined in regard to the allowance or disallowance of the said claim which should be determined before any final action is taken herein with regard to the relief sought by Deep Rock Oil Corporation, and that an accounting is necessarily required in the determination of the right of Standard Gas and Electric Company to the amount sought by it in its said claim or to any part thereof;

It Is Therefore By The Court Ordered, Adjudged and Decreed that any and all controversy heretofore existing as to the validity of the said claim of Standard Gas and Electric Company be, and the same is hereby, referred to Preston C. West, Esquire, a member of the Bar of this court, as Special Master, and he, the said Special Master, is hereby directed to take the testimony offered by the claimant and by the Trustee herein and report all the evidence, together with his findings of fact and conclusions of law, to this court at an early date. The proceeding before the Special Master, exceptions to his report, findings and conclusions and hearing thereon by the court shall be governed by the Federal Equity Rules except as herein provided.

O.K., V.M.

F. E. KENNAMER, Judge.

Endorsed: Filed June 22, 1934. 9:31 A. M. H. P. Warfield, Clerk U. S. District Court.

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Stipulation Between Counsel for the Trustee and The Standard Gas and Electric Company.

Whereas, the United States District Court in and for the Northern District of the State of Oklahoma did on March 2nd,

1933, in John L. Gray and L. B. Riddle v. Deep Rock Oil Corporation, No. 844 Equity, appoint E. H. Moore and H. N. Greis, co-receivers of the Deep Rock Oil Corporation (petitioner in the above styled bankruptcy cause) and of all of its properties, real, personal and mixed, of every kind whatsoever located or situated within the jurisdiction of said court, etc., and,

Whereas, Standard Gas and Electric Company intervened in said cause and alleged that it is a creditor of the Deep Rock Oil Corporation, and filed a claim therein averring that the Deep Rock Oil Corporation was indebted to it on open account in a balance due of $9,342,642.37, and attached to its claim and petition in intervention as Exhibit A the same itemized statement attached to Standard's claim filed against the Trustee in the above-styled cause; and,

Whereas, the receivers of said Deep Rock Oil Corporation filed a response to the intervening petition of said Standard in said Equity cause No. 844, denying the Deep Rock's indebtedness to Standard and pleading an offset of over $8,000,000.00; and,

Whereas, the United States District Court for the Northern District of Oklahoma in said Equity cause No. 844 did on January 5, 1934, appoint Honorable Preston C. West, a member of the bar of this court, Special Master, and authorized and empowered him to consider the pleadings, hear all the evidence and testimony of witnesses, orally or by deposition, and directed him to report his findings of fact and conclusions of law to the court with respect to said Standard claim; and,

Whereas, there were hearings before said Special Master and evidence introduced before him prior to the 19th day of June, 1934, the date the petition in bankruptcy was filed in the above-styled cause; and,

Whereas, the Standard Gas and Electric Company has filed its claim in the above-styled cause, being the same claim filed in Equity No. 844; and,

Whereas, the trustee has filed his objections to the allowance of the Standard's claim; and,

Whereas, the court in the above-styled cause (Bankruptcy No. 2318) has appointed Honorable Preston C. West, Special

Master, with authority to hear the evidence in support of and in opposition to the Standard's said claim;

Now, Therefore, It Is Agreed by and between counsel for H. N. Greis, Trustee, and counsel for Standard Gas and Electric Company that all the evidence heretofore taken before said special Master, Honorable Preston C. West, in Equity No. 844, and in Bankruptcy No. 2304, shall be considered as re-introduced before said Preston C. West, as Special Master in Bankruptcy No. 2318, and with like effect as if introduced before and heard by him after his appointment as Special Master in the above-styled cause.

Made and entered into on this 22nd day of June, 1934.

R. M. CAMPBELL, (Sgd.)
N. A. GIBSON, (Sgd.)
Counsel for Standard Gas and Electric Company.

GEO. S. RAMSEY, (Sgd.)
EDGAR A. de MEULES, (Sgd.)
VILLARD MARTIN, (Sgd.)
GARRET LOGAN, (Sgd.)
Counsel for H. N. Greis, Trustee.

Endorsed: Filed June 22, 1934. 9:32 A. M. H. P. Warfield, Clerk U. S. District Court.

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Order No. 14.

Order Making Permanent Appointment of Trustee.

This cause having been set for hearing upon the matter of making permanent the appointment of the trustee hereinbefore made on the 19th day of June, 1934, pursuant to Section 77b of the Bankruptcy Act, for the 7th day of July, 1934, which hearing was, on the 5th day of July, 1934, re-set for the 9th day of July, 1934, at the hour of ten o'clock A. M.;

The cause came on for hearing on this the 9th day of July, 1934, at the hour of ten o'clock A. M. in the court room of the District Court of the United States for the Northern District of Oklahoma at Tulsa, Oklahoma, upon the matter of making said appointment permanent;

And, it appearing that the Debtor, Deep Rock Oil Corporation, did give notice to all of its known creditors and to its

stockholders of the time and place of the hearing in manner and form as provided in the order appointing the trustee heretofore entered herein on the 19th day of June, 1934;

And, the Debtor, Deep Rock Oil Corporation, appearing by its attorney W. F. Semple and no one else appearing and the court being fully advised in the premises; finds that it is to the best interests of the Debtor, of its creditors and of its stockholders that the appointment of H. N. Greis as trustee of the estate of the Debtor, Deep Rock Oil Corporation, hereinbefore made on the 19th day of June, 1934, pursuant to Section 77b of the Bankruptcy Act, be made permanent;

It is therefore ordered, adjudged and decreed that the appointment of H. N. Greis as trustee of the estate of the Debtor, Deep Rock Oil Corporation, hereinbefore entered on the 19th day of June, 1934, be, and the same is hereby made permanent, the said H. N. Gries as such trustee to continue with all of the power and authority conferred upon him in said order of June 19, 1934, and upon the bond hereinbefore filed and approved.

Done on this the 9th day of July, 1934.

F. E. KENNAMER, District Judge.

O. K. W. F. Semple, Atty.

Filed in Open Court 1:35 P. M. July 9, 1934. H. P. Warfield, Clerk U. S. District Court.

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Petition No. 34.

Petition of Debtor Concerning Proposal of Plan of Reorganization.

To the Honorable Judge of the District Court of the United States for the Northern District of Oklahoma:

The Petitioner, Deep Rock Oil Corporation, Debtor, respectfully shows:

1. That on to-wit the 7th day of June, A. D. 1934, this Honorable Court appointed H. N. Greis of Tulsa, Oklahoma, temporary trustee for Deep Rock Oil Corporation, Debtor, under Section 77b of an Act entitled "An Act to establish a Uniform System of Bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto.

2. That on to-wit the 9th day of July, A. D. 1934, the appointment of H. N. Greis of Tulsa, Oklahoma, as Trustee for Deep Rock Oil Corporation, Debtor was made permanent by appropriate order of this Honorable Court.

3. That *purusant* to the provisions of Section 77b of the Bankruptcy Act, the Debtor intends to propose for the consideration of this Honorable Court a Plan of Reorganization of said Deep Rock Oil Corporation, Debtor, at a hearing on a day certain to be set by this Honorable Court, to be duly noticed in conformance with the order of this Honorable Court.

4. That the Plan of Reorganization to be proposed was prepared after months of intensive study of the *Corporations's* affairs by a committee known as the Reorganization Committee of Deep Rock Oil Corporation, which has been functioning since the 25th day of April, A. D. 1933, composed of John J. Shinners of Chicago, Illinois, Newton P. Frye of Chicago, Illinois, Albert J. Robertson of Des Moines, Iowa, G. M.- P. Murphy of New York, New York, John H. Mason of Philadelphia, Pennsylvania and Robert F. Holden of Philadelphia, Pennsylvania; that said Reorganization Committee has worked in conjunction with, and has been aided by Messrs. Cutting, Moore and Sidley of Chicago, Illinois, Counsel for the Reorganization Committee, individual accountants, the Primary Receivers of Deep Rock Oil Corporation by appointment of this Honorable Court, in equity proceedings, No. 844, which proceedings were pending prior to the inauguration of the bankruptcy proceedings herein, and Ramsey, de Meules, Martin and Logan of Tulsa, Oklahoma, counsel for the Primary Receivers.

5. That the Debtor believes and represents unto this Honorable Court that the Plan of Reorganization to be proposed and submitted is fair, just and equitable to all creditors and stockholders, and to all parties in interest, of said Debtor, and complies with the provisions of Section 77b of the Bankruptcy Act in so far as they concern the requisite elements of a Plan of Reorganization.

6. That a copy of the Plan of Reorganization which the Debtor intends to propose at a hearing duly noticed for its consideration by this Honorable Court is submitted herewith marked Exhibit A, and incorporated herein by express reference.

Wherefore, the Debtor prays:

(1) That this Honorable Court set for hearing on a day certain, the matter of the proposal of a Plan of Reorganization of the Debtor in this cause, and the consideration and approval thereof by this Honorable Court.

(2) That the Debtor be instructed by this Honorable Court concerning notice to be given all known creditors and stockholders, and all parties in interest of said Debtor of the time and place of said hearing,

(3) That this Honorable Court approve the filing in this cause of a copy of a Plan of Reorganization which the Debtor intends to propose at a hearing duly noticed for its consideration by this Honorable Court, and

(4) That the Debtor may be granted such other and further relief as to this court may seem just and equitable.

DEEP ROCK OIL CORPORATION,
By J. J. O'BRIEN,
President.

State of Illinois, County of Cook, ss:

I, John J. O'Brien, being duly sworn on oath, state that I am president of Deep Rock Oil Corporation; that the statements contained in the foregoing petition of Deep Rock Oil Corporation are true according to the best of my knowledge, information and belief.

J. J. O'BRIEN.

Subscribed to and sworn before me this 8th day of August, 1934. L. M. Sage, Notary Public. (Seal)

Endorsed: Filed 8-9-34. H. P. Warfield Clerk, U. S. District Court.

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Exhibit A.

Clerk's Note: (This Exhibit is a copy of the Original Plan of Reorganization and appears in this Record, as a part of Reorganization Committee's Exhibit #2. Omitted here pursuant to praecipe.)

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Order No. 34.

This order coming on to be heard on this 9th day of August, A. D. 1934, on the petition of counsel for the Debtor herein, praying that this Honorable Court set for hearing on a day certain the matter of the proposal of a Plan of Reorganization of the Debtor for the consideration and approval thereof by this Honorable Court; and asking instructions of this Honorable Court concerning notice to be given all known creditors and stockholders, and all parties in interest, of said Debtor, of the time and place of said hearing; and praying that this Honorable Court approve the action of the Debtor of filing in this cause a copy of the Plan of Reorganization which the Debtor intends to propose; and it appearing that due notice of this motion has been given to all solicitors of record in this cause; and the court being fully advised in the premises:

It Is Therefore Ordered, Adjudged and Decreed that hearing on the matter of the proposal of a Plan of Reorganization of the Debtor in this cause, for the consideration and approval thereof by this Honorable Court, be and the same is hereby set for the 20th day of August, A. D. 1934, at ten o'clock in the forenoon, in the court room of the District Court of the United States for the Northern District of Oklahoma, at Tulsa, Oklahoma.

It Is Further Ordered that the Debtor give notice to all known creditors and stockholders, and all parties in interest, of the Debtor, of the time and place of such hearing by publication of such notice in the Chicago Tribune, a newspaper of general circulation, published at Chicago, Illinois, and in the Daily Tulsa World, a newspaper published at Tulsa, Oklahoma, to be not later than the 13th day of August, A. D. 1934.

It Is Further Ordered that the action of the Debtor in filing in this cause a copy of the Plan of Reorganization, which the Debtor intends to propose at a hearing for its consideration and approval by this Honorable Court, to be held on the 20th day of August, A. D. 1934, at Tulsa, Oklahoma, be and the same is approved and confirmed.

Enter: F. E. KENNAMER, Judge.

Endorsed: Filed Aug. 9, 1934. H. P. Warfield, Clerk, U. S. District Court.

Petition No. 35.

Petition of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.- P. Murphy and Albert J. Robertson, as a Reorganization Committee, for Leave to Intervene, and for Further Relief.

To the Honorable, the Judge of the District Court of the United States for the Northern District of Oklahoma;

Your petitioners, John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee, respectfully allege and show unto the court as follows:

1. Deep Rock Oil Corporation, Debtor herein, filed on June 7, 1934, its answer in the above-entitled proceeding pursuant to Section 77b of "An Act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended thereafter including the amendments made on June 7, 1934, and this court thereupon entered an order approving the answer of the Debtor, Deep Rock Oil Corporation, as properly filed under said Section 77b of the Bankruptcy Act, and appointing H. N. Greis as Trustee, and this court thereupon directed that the application for the appointment of a permanent Trustee be set for hearing before said court at Tulsa, Oklahoma, on the 9th day of July, A. D. 1934, that on said 9th day of July the said court appointed H. N. Greis as permanent Trustee.

2. Thereafter and on the 9th day of August, A. D. 1934, the Debtor, Deep Rock Oil Corporation, filed its verified petition together with a plan of reorganization, which said Plan pursuant to the provisions of Section 77b (d) will be proposed at a hearing duly noticed for its consideration; that said plan of reorganization as proposed by the said Debtor, Deep Rock Oil Corporation, shall, pursuant to the provisions of Section 77b (d) of the Bankruptcy Act, be proposed without the approval of the creditors and stockholders of said Debtor, and cannot therefore be confirmed by this court until the provisions of Section 77b (e) have been met.

3. That the plan of reorganization as proposed by said Debtor, Deep Rock Oil Corporation, is in the form as prepared by the undersigned Committee as the result of months of intensive effort, which said Plan was prepared by the under-

signed Committee prior to the effective date of Section 77b of the Bankruptcy Act; that it is necessary and proper under the terms and provisions of Section 77b of the Bankruptcy Act that said Plan be submitted to the creditors and stockholders of the Debtor, Deep Rock Oil Corporation, in order that they may determine whether or not to accept said plan in the manner provided by said Section 77b and directed by this court.

4. Your petitioners have been constituted and are now acting as a Reorganization Committee under and pursuant to the Deposit Agreement, a copy of which is annexed to this Petition and marked Exhibit A, and your petitioners pray leave to refer to the same to the same extent as if set forth at length herein. Holders of claims, convertible gold notes and preferred stock of Deep Rock Oil Corporation, the Debtor, have been instrumental in the formation of your petitioners as a Reorganization Committee and have requested said Committee to develop and consummate a Plan for the reorganization of the old company in order that the assets of the old company may best be conserved, and that the rights and interests of all parties in and to such assets may be protected with the minimum of expense. Responsive to such request your petitioners have accordingly been constituted as a Reorganization Committee under the Deposit Agreement as aforesaid, and your petitioners as such Reorganization Committee approve the Plan of Reorganization, as proposed herein by the Debtor, Deep Rock Oil Corporation, which said Plan of Reorganization is attached hereto as Exhibit B and by this reference made a part hereof to the same extent as if set forth at length herein.

5. Your petitioners and each of them as such Reorganization Committee are parties in interest and representatives of creditors and stockholders of said Debtor, Deep Rock Oil Corporation, within the meaning of the terms and provisions of Section 77b (c), Clause 9 of the Bankruptcy Act, and are entitled under the provisions of Section 77b (c) of said Bankruptcy Act to file this their petition for leave to intervene, and if so ordered and determined by this court are entitled to be heard on all questions arising in this proceeding.

6. Your petitioners desire, if the court shall take jurisdiction, supervision and control of the said Deposit Agreement, Exhibit A hereof, and of the activities of your petitioners in connection therewith, to solicit from the creditors and stockholders of the Debtor, Deep Rock Oil Corporation, acceptances

of and consents to the Plan of Reorganization proposed by the Debtor and your petitioners desire and intend to publish the Reorganization Plan and Agreement by circularization and distribution thereof among all known creditors and preferred stockholders of the Debtor entitled to participation thereunder, and thereupon to call for the deposit of the claims, convertible gold notes and preferred stock of the Debtor in the Plan of Reorganization described as being entitled to participation thereunder. Your petitioners likewise intend to cause the Depositaries of their Committee named in the attached Deposit Agreement to issue Certificates of Deposit in the form attached to said Deposit Agreement to the creditors and preferred stockholders entitled to participation under the said Reorganization Plan and Agreement. In the event of a deposit of claims and securities in an amount sufficient under the provisions of Section 77b of the Bankruptcy Act to justify the confirmation of the Plan of Reorganization and if said Plan is confirmed by this court, your petitioners intend and desire in accordance with the provisions of the Plan of Reorganization, as more fully set forth therein, and under the supervision, direction and control of this court, and on behalf of the creditors and security holders who have become depositors under the provisions of the attached Deposit Agreement, to take or cause to be taken all steps necessary and proper for the consummation of the Plan of Reorganization and the issuance of securities to the creditors and preferred stockholders of the Debtor as provided in the Plan of Reorganization, all upon the terms and conditions and upon the basis of exchange provided in the said Plan of Reorganization.

7. Your petitioners believe and allege that the Plan of Reorganization should be submitted to the creditors and preferred stockholders of the Debtor, Deep Rock Oil Corporation, and that the reorganization of said Debtor pursuant to the Plan of Reorganization is for and in the best interests of such creditors and preferred stockholders.

8. Your petitioners further allege that said Plan of Reorganization is proposed by the Debtor, and this petition has been filed herein by the undersigned Reorganization Committee, in good faith, and that your petitioners shall solicit acceptances of said Plan of Reorganization only upon such terms and by the use of such means and promises permitted and not forbidden by the Bankruptcy Act and as directed by the court.

Your petitioners desire, therefore, that this court shall take jurisdiction and supervision of the Deposit Agreement and of the activities of your petitioners in connection with the announcement of the proposed Plan of Reorganization to the creditors and security holders of the Debtor, Deep Rock Oil Corporation, and particularly jurisdiction and supervision of the solicitation and deposit of securities and claims, and of the issuance and distribution of Certificates of Deposit by your petitioners and/or their Depositaries, as provided in the attached Deposit Agreement. Your petitioners further desire that the terms and conditions under which the Certificates of Deposit are issued pursuant to the attached Deposit Agreement, in exchange for the outstanding claims and securities of the Debtor, Deep Rock Oil Corporation, shall be approved as fair by this court, pursuant to the authorization created by law to grant such approval under the provisions of Section 77b of the Bankruptcy Act.

9. In view of your petitioners' interest and connection with further proceedings, all as herein alleged and as proposed in the Plan of Reorganization and in the Deposit Agreement, and in order that the interests of security holders and creditors of the Debtor, Deep Rock Oil Corporation, may best be protected, and to the end that all further proceedings may be carried out and performed under the supervision of this court, your petitioners desire to intervene in the above-entitled cause and to file this their intervening petition together with a copy of the Deposit Agreement and a copy of the Plan of Reorganization proposed by the Debtor, Deep Rock Oil Corporation.

10. Your petitioners for the further protection and conservation of the Debtor's estate desire this court to allow reasonable compensation for the services rendered and to be rendered by the undersigned Reorganization Committee, and reimbursement for the actual and necessary expenses incurred in connection with the proceeding and plan by the undersigned Committee and its Depositaries, including compensation for services rendered and to be rendered and reimbursement for expenses to the attorneys of the undersigned Reorganization Committee and their Depositaries.

Wherefore, your petitioners pray:

1. That they be allowed as a Reorganization Committee under the terms and provisions of the Deposit Agreement

attached hereto as Exhibit A to intervene in the above proceeding and that they may be permitted to file with the clerk of this court this petition to be hereafter treated and considered as their intervening petition.

2. That this court will take and forthwith exercise its supervision, control and jurisdiction over the publication and announcement by your petitioners of the Plan of Reorganization proposed by the Debtor, and the attached Deposit Agreement and over the deposit under said Deposit Agreement of the securities of the Debtor and claims against said Debtor mentioned and entitled to participation under the Plan of Reorganization; that this court will take supervision, control and jurisdiction over the issuance of Certificates of Deposit under said Deposit Agreement by your petitioners and/or their Depositaries in respect of such securities and claims thus deposited; and that this court will supervise all activities of your petitioners taken in connectiton with or for the purpose of publishing, announcing and consummating said Plan of Reorganization.

3. That this court may direct a hearing upon the terms and conditions of the attached Deposit Agreement, pursuant to which the creditors and security holders of the Debtor are to be asked to exchange securities of and claims against the Debtor, Deep Rock Oil Corporation, for Certificates of Deposit and receipts, as provided in said Deposit Agreement, and that this court may direct that all persons to whom it is proposed to issue Certificates of Deposit shall have the right to appear at said hearing which shall be set for a date to be fixed by the court upon such notice as the court may direct; and that the court at such hearing may find that all of the terms and conditions of the issuance of Certificates of Deposit in exchange for the securities of and claims against the Debtor, Deep Rock Oil Corporation, pursuant to the said Deposit Agreement are fair.

4. That this court may find that it is to the best interests of the creditors and security holders of the Debtor that the Plan of Reorganization proposed by the Debtor be published, announced and presented by your petitioners to the creditors and preferred stockholders of the Debtor under the supervision of the court, and that permission be granted by this court to your petitioners to announce said Plan of Reorganization and

seek deposits under the Deposit Agreement for the purpose of evidencing the consent to and acceptance of said Plan by the creditors and security holders of the Debtor, Deep Rock Oil Corporation.

5. That this court will upon the subsequent petition of your petitioners and upon such notice as shall to the court then seem fitting and necessary, set a time for the consideration by this court of the Plan of Reorganization and of the offers contained therein or made pursuant thereto, to all classes of the creditors and to the preferred stockholders of the Debtor, Deep Rock Oil Corporation, and for the hearing of any and all objections to said Plan of Reorganization, all as provided by the terms and provisions of Section 77b of the Bankruptcy Act.

6. That your petitioners may have such other and further relief in the premises as to the court may seem fitting and just.

Dated August 9th, 1934.

JOHN J. SHINNERS,
NEWTON P. FRYE,
ROBERT F. HOLDEN,
JOHN H. MASON,
GRAYSON M.-P. MURPHY,
ALBERT J. ROBERTSON,

As a Reorganization Committee constituted by and under a Deposit Agreement, dated August 9th, 1934.

By JOHN J. SHINNERS,
Chairman.

State of Oklahoma, County of Tulsa, ss.

John J. Shinners, being first duly sworn, on his oath deposes and says that he is the Chairman of the Reorganization Committee referred to in the attached petition; that he signed said petition as such Chairman; that he is duly authorized to act for said Committee in this behalf, and that the statements made in said petition are true to the best of his knowledge, information and belief.

JOHN J. SHINNERS.

Subscribed and sworn to before me this 9th day of August, A. D. 1934. May Scheig, Notary Public. (Seal) My commission expires July 5, 1935.

Exhibits A and B.

Clerk's Note:—(These exhibits are copies of the Original Plan of Reorganization and Deposit Agreement and appear in this Record as parts of Reorganization Committee's Exhibit # 2, omitted here pursuant to praecipe.)

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Order No. 35.

Order Allowing the Intervention of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, Members of a Reorganization Committee.

This cause this day coming on to be heard upon the verified petition of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee constituted by and under the terms and provisions of a certain Deposit Agreement dated as of August 9th, 1934, and upon a copy of said Deposit Agreement annexed to said petition and marked as Exhibit A thereto; and it appearing to the court that the petitioners above-named have been constituted a Reorganization Committee for the purpose of endeavoring to carry out a Plan of Reorganization which is to be proposed herein under the provisions of Section 77b of the Bankruptcy Act by the Debtor, Deep Rock Oil Corporation, and that said petitioners, as such Reorganization Committee, represent debts and securities outstanding of the Debtor, Deep Rock Oil Corporation;

It Is Ordered, Considered, Adjudged and Decreed:

1. That John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee constituted by and acting under said Deposit Agreement, dated as of August 9th, 1934, be and they hereby are permitted to intervene in the above-entitled cause, and to file with the clerk of this court their said petition, which is hereby declared to be their intervening petition, and said interveners are hereby permitted and directed to file forthwith with the clerk of this court a copy of said Deposit Agreement annexed to said intervening petition as Exhibit A, and said petitioners and each of them as said Reorganization Committee are hereby made parties in this proceeding.

2. That the application and prayer for the approval by this court under the authority created by law of the terms and conditions of the Deposit Agreement, dated as of August 9th, 1934, under which it is proposed by said interveners to issue certificates of deposit in exchange for the outstanding securities of and claims against the Debtor, Deep Rock Oil Corporation, be and it is hereby set for hearing in the court room of the District Court of the United States for the Northern District of Oklahoma, in the Federal Building at Tulsa, Oklahoma, on the 20th day of August, A. D. 1934, at the hour of 10 o'clock A.M.;

3. It is further ordered that the Trustee herein, H. N. Greis, give notice to all of the creditors and stockholders of the Debtor known to said Trustee of the time and place of such hearing by depositing a written notice in the United States Post Office at Chicago, Illinois, in envelopes addressed to the last address of said creditors and stockholders of the Debtor known to said Trustee, with the necessary and proper postage attached thereto, at least five days before the said 20th day of August, A. D. 1934; and by publication of such notice at least five days prior to said 20th day of August, A. D. 1934, in a newspaper of general circulation published in the City of Tulsa, Oklahoma, and a similar newspaper published in the City of Chicago, Illinois, and a similar newspaper published in the City of New York, New York.

Made and entered this 9th day of August, A. D. 1934.

Enter:

F. E. KENNAMER, Judge.

Endorsed: Filed Aug. 9, 1934. H. P. Warfield, Clerk.

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Petition No. 40.

Petition of Debtor Proposing Plan of Reorganization for Its Consideration by the Court.

To the Honorable Judge of the District Court of the United States for the Northern District of Oklahoma:

The Petitioner, Deep Rock Oil Corporation, Debtor, respectfully shows:

1. That on the 9th day of August, A. D., 1934, this court approved the action of the Debtor in filing in this cause a

Plan of Reorganization of the Debtor prepared in compliance with the provisions of Section 77b of the Bankruptcy Act, in so far as they concern the requisite elements of the Plan of Reorganization, and set for a hearing on the 20th day of August, A. D. 1934, at ten A. M. in the forenoon, in this court, the matter of the proposal of said Plan of Reorganization by the Debtor.

2. That on the 9th day of August, A. D. 1934, this court entered an order directing the Debtor to give notice to all known creditors and stockholders, and all parties in interest, of the Debtor, of the time and place of such hearing, by publication of such notice in the Chicago Tribune, a newspaper of general circulation published at Chicago, Illinois, and in the Tulsa Daily World, a similar newspaper published at Tulsa, Oklahoma, said publications to be made not later than the 13th day of August, A. D. 1934.

3. That publication of said notice was made pursuant to the order of this court, as evidenced by Certificate of Publication executed by the duly authorized representatives of the Chicago Tribune and the Tulsa Daily World, which certificates are hereto attached, marked Exhibits A and B, and incorporated herein by express reference.

4. That the Plan of Reorganization proposed by the Debtor is fair, just and equitable to all creditors and stockholders, and all parties in interest, of the Debtor, and a copy of said Plan, in the form presented to this court on August 9, 1934, is attached hereto marked Exhibit C and incorporated herein by express reference.

5. That the Plan of Reorganization of the Debtor was prepared by a committee known as the Reorganization Committee of Deep Rock Oil Corporation, which committee has intervened in this cause pursuant to the order of this court entered August 9, 1934, and that the Debtor believes and represents unto this court that the Plan of Reorganization should be submitted to the creditors and stockholders, and all parties in interest, of the Debtor, by the Reorganization Committee, and that said Reorganization Committee be instructed to solicit consents to and acceptances of said Plan of Reorganization from the creditors and stockholders, and all parties in interest, of the Debtor.

6. That the proposal of a Plan of Reorganization of the

Debtor for the consideration and approval thereof by this court has been duly authorized by the Debtor by resolution of the Board of Directors of the Debtor, adopted at a meeting thereof duly held on the 6th day of August, A. D. 1934.

Wherefore the Debtor Prays:

1. That this court find that notice of the hearing of the matter of the proposal of a Plan of Reorganization of the Debtor was given to all creditors and stockholders and all parties in interest, of the Debtor, pursuant to the order of this court entered on August 9, 1934.

2. That this Court find that the Plan of Reorganization of the Debtor was filed in this cause on August 9, 1934, in good faith by the Debtor.

3. That this court find that a Plan of Reorganization of the Debtor has been proposed by the Debtor pursuant to the provisions of Section 77b of the Bankruptcy Act at a hearing duly noticed for its consideration.

4. That this court approve and confirm the action of the Debtor in proposing a Plan of Reorganization of the Debtor for the approval and consideration thereof by this court.

5. That the Plan of Reorganization proposed by the Debtor be not approved, but that the matter of a hearing on the confirmation of said Plan of Reorganization of the Debtor be deferred until a later date to be fixed by this court.

6. That the Committee, known as the Reorganization Committee of the Debtor, be authorized and instructed by this court to submit said Plan of Reorganization to the stockholders and creditors, and all parties in interest, of the Debtor affected by the Plan for the purpose of affording to said creditors and stockholders an opportunity to accept or decline to accept said Plan, and for the purpose of securing consents to and acceptances of said Plan of Reorganization.

7. That the Debtor may be granted such other and further relief as to this court may seem just and equitable.

DEEP ROCK OIL CORPORATION,
By J. J. O'BRIEN,
President

State of Illinois, County of Cook, ss.

I, John J. O'Brien, being duly sworn on oath, state that I am president of Deep Rock Oil Corporation; that the statements contained in the foregoing petition of Deep Rock Oil Corporation are true according to the best of my knowledge, information and belief.

(Seal) JOHN J. O'BRIEN.

Subscribed and sworn to before me this 16th day of August, A. D. 1934. C. M. Mader, Notary Public.

Endorsed: Filed Aug. 20, 1934. H. P. Warfield, Clerk.

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Exhibits A and B.

Clerk's Note:—(These exhibits are Proofs of Publication and are covered by Section 3 of "Stipulation on Pleadings," omitted here pursuant to praecipe.)

Exhibit C.

Clerk's Note:—(This is a copy of the Original Plan of Reorganization and appears in this Record as a part of Reorganization Committee's Exhibit #2, omitted here pursuant to praecipe.)

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Order No. 40.

Order.

This cause coming on to be heard on the 20th day of August, A. D. 1934, upon the petition of the Debtor, Deep Rock Oil Corporation, this day filed herein pursuant to the provisions of Section 77b of the Bankruptcy Act, and the court finding that due notice of this hearing was given to all creditors and stockholders, and all parties in interest of the Debtor, in accordance with the order of this court entered on August 9, 1934; and the court further finding that a Plan of Reorganization of the Debtor has been proposed by the Debtor in good faith, and pursuant to the provisions of Section 77b of the Bankruptcy Act, at a hearing duly noticed for its consideration; and the court further finding that a Plan of Reorganization of the Debtor was filed in good faith, in this cause on August 9, 1934; and the court being fully advised in the premises,

It Is Therefore Ordered, Adjudged and Decreed:

(1) That the action of the Debtor in proposing a Plan of Reorganization for the consideration and approval thereof by this court be and the same is approved and confirmed,

(2) That the Plan of Reorganization of the Debtor be not confirmed, but that the matter of a hearing on the confirmation of the Plan of Reorganization of the Debtor be deferred until a later date to be fixed by this court,

(3) That the committee known as the Reorganization Committee of Deep Rock Oil Corporation, being intervening parties in this cause, is authorized and directed to present said Plan of Reorganization to all creditors and stockholders, and all parties in interest, of the Debtor, affected by the Plan, for the purpose of affording said creditors and stockholders, and all parties in interest, of the Debtor, to accept or decline to accept said Plan, and for the further purpose of securing written consents to and acceptances of said Plan of Reorganization.

Enter:

F. E. KENNAMER, Judge.

Endorsed: Filed Aug. 20, 1934. H. P. Warfield, Clerk.

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Order No. 35A.

Order Approving Deposit Agreement.

This cause this day coming on to be heard on the verified petition heretofore filed herein of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee constituted by and under the terms and provisions of a certain Deposit Agreement dated as of August 9, 1934, a copy of which said Deposit Agreement is annexed to the petition of said Reorganization Committee and marked as Exhibit A thereto; and it appearing to the court that said petitioners have heretofore been permitted to file said intervening petition and have been made parties in this cause; and it further appearing to the court that the petitioners above-named have submitted to this court the Deposit Agreement (and attached form of Certificates of Deposit) dated as of August 9, 1934; and that said petitioners desire and intend, subject to the

jurisdiction, supervision and control of this court to promulgate, announce and publish the Plan of Reorganization heretofore proposed herein by the Debtor, Deep Rock Oil Corporation, and to submit forthwith said proposed Plan of Reorganization to the creditors and security holders of the Debtor and to solicit the deposit of claims against and securities of said Debtor, under and pursuant to the provisions of said Deposit Agreement, thus evidencing the consent to and acceptance of the proposed Plan of Reorganization, and that said petitioners intend to cause their Depositaries named in said Deposit Agreement to issue Certificates of Deposit or receipts in exchange for securities of and claims against the said debtor thus deposited with the said Reorganization Committee under said Deposit Agreement;

And it further appearing to the court that the Plan of Reorganization proposed herein by the Debtor has not been accepted by sufficient creditors and security holders of said Debtor to be confirmed by this court under and pursuant to the provisions of Section 77b of the Bankruptcy Act, and that it is necessary, desirable and proper that the said proposed Plan of Reorganization be submitted to said security holders and creditors of the Debtor for their consideration so that said security holders and creditors may be given an opportunity to consent to and accept said proposed Plan of Reorganization, or to decline to accept said Plan; and it further appearing to the court that the said Reorganization Committee has been engaged for a period in excess of one year in preparing and developing a Plan of Reorganization substantially in the form as proposed by the Debtor and that it is desirable that said proposed Plan of Reorganization should be published and announced by said Reorganization Committee and that such publication and announcement should be undertaken and carried forward under the supervision, control and jurisdiction of this court, pursuant to the provisions and terms of Section 77b of the Bankruptcy Act, in order that the rights and interests of the creditors and security holders of the Debtor may be protected, and that the assets herein may be conserved and preserved; and it appearing further to the court that notice has been given pursuant to the order entered herein on the 9th day of August, A. D. 1934, that this court would on this day conduct a hearing (at which all creditors and stockholders of the Debtor shall have the right to appear) to consider and pass upon the fairness of the terms and conditions of the issuance

of Certificates of Deposit in exchange for securities of and claims against the Debtor pursuant to the Deposit Agreement, dated August 9, 1934, under which it is proposed by said intervening petitioners, parties herein, being the said Reorganization Committee, to cause to be issued Certificates of Deposit or receipts in exchange for claims against and securities of the Debtor, Deep Rock Oil Corporation;

And it further appearing to the court that under the terms and provisions of Section 77b (d) of the Bankruptcy Act, this court should scrutinize the limitations and provisions of any deposit agreement and other authorization affecting creditors of the Debtor; and the court having heard the evidence offered by the parties hereto, and having heard the arguments of counsel and being fully advised in the premises,

Doth Hereby Find:

1. That the Plan of Reorganization, as proposed by the Debtor, Deep Rock Oil Corporaton, has been filed and proposed in good faith, and that the said Reorganization Committee intends in good faith to procure under the orders and directions of this court, acceptance of said Plan of Reorganization by means and promises permitted and not forbidden by the Bankruptcy Act;

2. That it is to the best interests of the creditors and security holders of the Debtor, Deep Rock Oil Corporation, that the proposed Plan of Reorganization should be promulgated, announced, and submitted to the creditors and security holders of said Debtor by the Reorganization Committee aforesaid, and that such announcement and submission should be carried on under the supervision, control and direction of the court;

3. That the terms and conditions of the Deposit Agreement (including the forms of Certificates of Deposit attached thereto), executed by John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as of the 9th day of August, A. D. 1934, are fair;

4. That under the provisions of Section 77b of the Bankruptcy Act it is contemplated that creditors may act through committees and may evidence their acceptance of and consent to the proposed Plan of Reorganization through the deposit of securities with reorganization committees and their depositaries;

5. That creditors and security holders of the Debtor, Deep Rock Oil Corporation, should be entitled and allowed to evidence their consent to and acceptance of the Plan of Reorganization, proposed herein by the Debtor, by the deposit of their claims and securities under the terms and provisions of said Deposit Agreement of the Reorganization Committee.

It Is Therefore Ordered, Considered, Adjudged and Decreed:

1. That the terms and conditions of the issuance of Certificates of Deposit in exchange for securities of and claims against the Debtor, Deep Rock Oil Corporation, and the terms and conditions of the Deposit Agreement, dated as of August 9, 1934, as executed by the intervening parties herein, John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, including the Certificates of Deposit to be issued thereunder, be and the same are hereby approved by this court;

2. This court hereby takes jurisdiction of said Deposit Agreement, dated as of August 9, 1934, and hereby permits and authorizes John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson as said Reorganization Committee to announce, publish and submit to the creditors and security holders of the Debtor, Deep Rock Oil Corporation, the Plan of Reorganization proposed herein by said Debtor; and said Reorganization Committee is further authorized, directed and permitted to solicit the deposit of securities of and claims against said Debtor under the terms and provisions of said Deposit Agreement, dated as of August 9, 1934, and to issue or cause to be issued by their Depositaries Certificates of Deposit substantially in the form attached to said Deposit Agreement to the creditors and security holders of said Debtor, Deep Rock Oil Corporation, who desire to consent to and accept the Plan of Reorganization proposed herein by said Debtor in exchange for such claims or securities under the terms and provisions of said Deposit Agreement dated August 9, 1934; and in connection with any of the foregoing, said Reorganization Committee is further authorized to secure the assistance of security dealers who shall be compensated for their services as this court may later direct;

3. It is further ordered that holders of securities of and

claims against said Debtor may evidence their consent to and acceptance of the Plan of Reorganization proposed by the Debtor by becoming depositors under the terms and conditions of said Deposit Agreement, dated as of August 9, 1934;

4. It is further ordered that this court reserves jurisdiction to consider and determine whether or not the terms and provisions of said Plan of Reorganization shall be confirmed until such time as said Plan of Reorganization as proposed by the Debtor may be presented for the consideration of this court upon its acceptance by the creditors and security holders of said Debtor, in accordance with the terms and provisions of Section 77b of the Bankruptcy Act;

5. And this court hereby reserves jurisdiction upon the further petition of said Reorganization Committee, or other parties hereto, to set a time for the consideration, upon such notice as this court shall then direct, of the fairness of said Plan of Reorganization, and of the offers contained therein, or made pursuant thereto, and for the hearing of any objections, complaints, criticisms or suggested modifications or changes relating to said Plan:

It is further ordered that this court, pursuant to the provisions of Section 77b of the Bankruptcy Act, reserves jurisdiction to hereafter direct changes in and modifications of, said Deposit Agreement dated as of August 9, 1934, upon such hearing as the court may direct;

6. It is further ordered that said interveners, the Reorganization Committee, shall hereafter, pursuant to the further order of this court, report and submit to this court from time to time for the consideration, determination and approval of the court, the charges, costs, expenses and fees of said Reorganization Committee, their Depositaries, and counsel for the Committee and Depositaries; and this court further orders and directs that under and pursuant to the provisions of Section 77b of the Bankruptcy Act, the said Reorganization Committee, their Depositaries and counsel for the Committee and Depositaries are entitled to an allowance by this court in amounts to be hereafter fixed and determined by the court of fees covering services rendered and to be rendered, and to be reimbursed pursuant to the further order of this court for actual and necessary expenses of said Committee and their Depositaries.

Ordered, Adjudged and Decreed this 20th day of August, A. D. 1934.

Enter: F. E. KENNAMER, Judge.

Endorsed: Filed August 21, 1934, H. P. Warfield, Clerk U. S. District Court.

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Petition No. 56.

Petition of Trustee for an Order Directing the Filing of Claims and Evidence of Interests of Creditors and Stockholders.

Now comes H. N. Greis, Trustee herein, and respectfully represents to the court:

1. There are many persons holding claims against or stock in Deep Rock Oil Corporation, Debtor herein, who are or may be entitled to participate in a plan of reorganization of said company.

2. The Debtor, Deep Rock Oil Corporation, has outstanding $10,000,000 in principal amount of unsecured Convertible Gold Notes issued under date of March 1, 1928. Said Convertible Gold Notes were sold to the public generally and are owned by sundry persons, firms and corporations.

3. The outstanding stock of the Debtor consists of 599,475 shares of common stock, 579,132 shares of which are held by Standard Gas & Electric Company, and 50,000 shares of $7 Cumulative Convertible Preferred Stock, which stock was sold to the public generally and is owned by sundry persons, firms and corporations.

4. Certain claims against Deep Rock Oil Corporation were filed in this court prior to the commencement of these proceedings with the receivers in equity cause No. 844 entitled "John L. Gray and L. B. Riddle, plaintiffs, v. Deep Rock Oil Corporation, a corporation, defendant," which equity cause was terminated upon the commencement of these proceedings.

5. Owing to the large number of claims and the great number of the preferred stockholders of the debtor, the court's convenience and the interests of creditors and stockholders would be best served by the designation and appointment of a special master of this court, with whom all claims of cred-

itors and evidence of interests of stockholders shall be filed; the said special master to examine, consider and recommend to this court the allowance or rejection of all claims of creditors and interests of stockholders filed with him and a classification of the claims and interests filed.

Wherefore, the trustee prays that an order may be entered herein:

(a) Directing that all claims of creditors and evidence of interests of stockholders of the debtor, Deep Rock Oil Corporation, shall be filed or evidenced in this proceeding on a date to be designated by this court, and that no creditor or stockholders shall be allowed to participate in any plan of reorganization of said debtor, except upon order for cause shown, unless the claim or evidence of interest is filed on or before said date;

(b) Directing where and in what manner claims of creditors shall be filed;

(c) Directing where and in what manner the interests of stockholders of the debtor shall be evidenced;

(d) Directing that the claims of creditors and objections thereto filed prior to the institution of these proceedings with the receivers in the said equity cause No. 2318 in the District Court of the United States for the Northern District of Oklahoma, shall be deemed to have been filed herein, and that no additional claim or objections need be filed herein with respect thereto;

(e) Directing the manner in which notice of the entry of this order shall be given.

H. N. GREIS, as Trustee.

Dated November 16, 1934.

RAMSEY, MARTIN & LOGAN,
EDGAR R. de MEULES,
Attorney for Trustee.

Endorsed: Filed Nov. 19, 1934, H. P. Warfield, Clerk U. S. District Court.

## Order No. 56.

**Determining Time and Manner in Which Claims of Creditors and Interest of Stockholders May Be Filed or Evidenced.**

This cause coming on to be heard on this the 19th day of November, 1934, upon the petition of H. N. Greis, trustee herein, for the determination of the time and manner in which the claims and interests of creditors and stockholders may be filed, evidenced and allowed, it is hereby Ordered:

1. Time for Filing Claims of Creditors.

All claims of creditors of the debtor shall be filed in this proceeding in the manner hereinafter set forth on or before the 20th day of January, 1935, and unless the claim is so filed on or before said date the claimant shall not be allowed to participate in any plan of reorganization of the debtor, except upon order for cause shown.

2. Time for Filing Evidence of Interest of Stockholders.

Interest of stockholders of the debtor shall be evidenced in this proceeding in the manner hereinafter set forth on or before the 20th day of January, 1935, and unless the interest is so evidenced on or before said date the stockholder shall not be allowed to participate in any plan of reorganization of said Debtor, except upon order for cause shown.

3. Place for Filing Claims and Evidence of Interest.

All claims of creditors and evidence of interest of stockholders shall be filed with H. N. Greis as trustee, at his office in the Atlas Life Building, Tulsa, Oklahoma.

4. Manner in Which Claims of Creditors Shall Be Evidenced.

Except as otherwise provided in this order, all claims of creditors shall be evidenced as follows:

(a) Each proof of claim of creditors shall contain a written statement under oath signed by the creditor or an agent setting forth the claim, whether any and if so what security is held therefor, and if the creditor claims a preference, shall state the grounds on which the claim of preference is based.

(b) Whenever a claim is founded upon and evidenced by a written instrument, such instrument, unless lost or destroyed, shall be filed with the claim. If such instrument is

lost or destroyed, a statement of such fact and the circumstances of such loss or destruction shall be filed with the claim.

(c) Any claimant may withdraw the original instrument evidencing the claim by complying with the following provisions:

(i) If the claim is founded upon or evidenced by a written instrument other than one of the Convertible Gold Notes of the Debtor issued under date of March 1, 1928, a copy of the original instrument shall be substituted in lieu of the original.

(ii) If the claim is founded upon one of the Convertible Gold Notes of the Debtor, the claimant shall list the note or notes with the serial numbers thereof and a statement showing the date of the earliest unpaid coupons, if any, attached thereto.

(iii) The trustee shall stamp upon the original instrument a legend that the proof of claim respecting the instrument has been filed in these proceedings and that no additional or other proof of claim in respect of said instrument may be filed in this proceeding.

5. Claim of Standard Gas & Electric Company.

The entry by this court in the pending proceedings wherein the Trustee has controverted the claim of Standard Gas & Electric Company of an order adjudicating the claim of Standard Gas & Electric Company, as a creditor, whether or not said order be entered prior to January 20, 1935, shall, subject to right of the interested parties, constitute an allowance by the court of the claim of Standard Gas & Electric Company for such amount as may be specified in said order, and Standard Gas & Electric Company shall not be required to file any further proof of debt with respect to said claim.

6. Provisions as to Claims of Creditors Previously Filed With the Equity Receivers.

Claims of creditors filed prior to November 19, 1934, with the receivers in equity cause, No. 844 entitled "John L. Gray and L. B. Riddle, plaintiffs, vs. Deep Rock Oil Corporation, a corporation, defendant," in the District Court of the United States for the Northern District of Oklahoma be deemed to have been filed herein, and no additional claims need be filed herein with respect thereto. Said claims shall be deemed to

have been filed for the same principal amount set forth in such claims. The Trustee herein shall, on or before February 20, 1935, file with the court all claims filed with the receivers in said equity proceeding and all notes or other written instruments attached thereto. Any claims filed with the equity receivers to which the original instrument on which the claim is founded was not attached shall be considered as regularly filed in these proceedings if the creditor, on or before the date hereinbefore fixed for the filing of claims, complies with the provisions of paragraph four hereof with reference to original instruments. Any claimant may file a proof of claim in these proceedings before the time and at the place and in the manner provided herein for filing claims, whether or not such creditor shall have heretofore filed a claim in the above-mentioned equity proceeding, and the filing of such claim shall be deemed a withdrawal of the claim previously filed with the equity receivers.

7. Manner in Which Interests of Stockholders Will Be Evidenced.

The books and records of the debtor shall be prima facie evidence of the holders and owners of stock of the debtor and no further evidence of interest need be filed on behalf of stockholders of record in the absence of adverse claims to said stock. All interests of stockholders of the debtor not reflected by its books and records and all interests of parties claiming any right or title to, or lien upon stock of the debtor not reflected by its books and records, may be evidenced by filing with the Trustee a verified proof of interest, having attached thereto the original of the stock certificates, unless lost or destroyed, and/or contract, if any, evidencing claimant's interest therein. Any stock certificate so filed may be withdrawn by the party filing it if such party attaches to his proof of interest a statement showing the class of stock, the serial number of stock certificates and the number of shares represented by each certificate. The Trustee shall stamp on the original stock certificate a legend that proof of interest respecting said stock certificate has been filed in these proceedings and that no additional or other proof of interest may be filed in these proceedings.

8. Proof of Claims and Evidence of Interest by Committees.

Any committee (including the Reorganization Committee,

intervening parties herein, acting under the Deposit Agreement, dated August 9, 1934, of which John J. Shinners is Chairman) with which stock or Convertible Gold Notes of the Debtor may have been deposited may file claims or evidence of interest on behalf of said creditors and the owners of said stock (if by their deposit agreement they are authorized to do so) by filing with the proof of interest, or proof of claim, a copy of the deposit agreement under which said Committee is acting, a list of the stockholders or creditors on whose behalf the claim is filed, giving the serial number of the stock certificates and/or notes, the number of shares represented by each stock certificate and the principal amount of each note and the address of the depositor with such Committee as shown by the records of the Committee. If the stock certificates or notes deposited with said Committee are on deposit with a depositary under the terms of a Deposit Agreement approved by this court it shall not be necessary for said Committee to comply with the provisions of this order with reference to original instruments; it is, however, provided that there be filed by such Committee with the proof of claim or proof of interest a certificate of said depositary, giving the serial number of the stock certificates and/or notes on deposit with it, the number of shares represented by each stock certificate and the principal amount of each note and the address of the depositor as shown by the records of the depositary.

In case a proof of claim or proof of interest shall be filed by a committee with respect to stock and/or notes so deposited with such a depositary in accordance with the provisions of this order and without filing the original instruments, the depositary so holding such original instruments is hereby ordered not to dispose of such original instruments without first submitting such original instruments to the trustee in order that he may stamp upon the original instrument a legend that a proof of claim respecting the instrument has been filed in these proceedings and that no additional or other proof of claim or proof of interest in respect of said instrument may be filed in this proceeding.

9. Proof of Claims by Trustee Under Indenture Pursuant to Which Convertible Gold Notes Were Issued.

The First National Bank of Chicago, as successor trustee under Indenture dated March 1, 1928, pursuant to which $10,000,000 in principal amount of the Debtor's Convertible Gold

Notes were issued, is hereby authorized and permitted to file with the trustee a proof of claim on behalf of all holders of said Convertible Gold Notes without the production or filing of any of said Convertible Gold Notes or copies thereof, and if said Bank, as such successor trustee, shall file such a claim it shall not be necessary for any committee or any individual noteholder to file proofs of claim with respect to said Convertible Gold Notes or any part thereof. In the event, however, that said Bank, as such successor trustee, shall file a proof of claim on behalf of all of the holders of said Convertible Gold Notes, said proof of claim shall automatically be reduced from time to time to the extent that committees or individual noteholders shall file proofs of claim with respect to certain of said Convertible Gold Notes and upon the allowance by this court of claims filed by individual noteholders or by committees with respect to certain specified notes any claim filed by said Bank, as such successor trustee, on behalf of all noteholders shall not be deemed to be filed on behalf of noteholders whose claims have been so allowed upon proofs of claim filed by them individually or by a committee representing them. In the event of any controversy hereafter arising with respect to the ownership of any Convertible Gold Notes covered by any claim filed by said Bank, as such successor trustee, the right is reserved in the trustee and in this court to require such further or additional proof of claim as may be necessary to determine such controversy.

10. Forms.

The trustee may (but shall not be required to) prepare forms to be approved by this court to be used as proof of claim or evidence of interest herein.

11. Objections to Allowance of Claims or Evidence of Interest.

Objections in writing to the allowance of any claim of a creditor may be filed with the trustee on or before February 20, 1935, by any party in interest desiring to make such objection. Objections in writing to the allowance of any evidence of a stockholder may be filed with the trustee on or before February 20, 1935, by any party in interest desiring to make such objection.

12. Reference to Special Master.

All disputed matters with reference to the allowance of

claims of creditors or interest of stockholders may be referred to a special master, to be appointed by this court, for consideration and report.

13. Assignment of Claims.

The said trustee shall maintain a docket of claims of creditors and evidences of interest of stockholders filed in this proceeding. Upon the filing of satisfactory proof of the assignment of a claim of a creditor or evidence of interest of a stockholder entered on the docket of the trustee, he shall immediately give notice by mail to the original claimant of the filing of such assignment, and if no objection is entered within ten days after the giving of such notice, the assignee shall thereupon acquire all of the rights of the original claimant. If objections shall be made, the trustee shall hear the same, on notice to the original claimant and to the assignee, and shall report his findings thereon, together with a summary of the evidence, to this court.

14. Reservation of Jurisdiction.

The court reserves any right conferred by Section 77b of the Bankruptcy Act to determine in the future, if necessary, that the Debtor is solvent or insolvent or that the interest of any class of stockholders is not affected by any proposed plan of reorganization and to determine whether or not the acceptance of any plan of reorganization proposed in this proceeding, by or on behalf of the stockholders of the Debtor holding a majority of the stock of such class is requisite to the confirmation of such plan.

15. Giving of Notice.

The trustee is hereby directed to give notice of the entry of this order by mailing, within fifteen days from the date hereof, a copy of this order to each creditor, claimant and stockholder of the Debtor known to the trustee at their respective addresses appearing upon the books and records of the Debtor, the trustee or of said receivers in the equity cause hereinbefore referred to, and to publish said notice in a newspaper of general circulation printed and published in the English language in Chicago, Illinois, and in Tulsa, Oklahoma, at least once a week for two successive weeks beginning with the week commencing November 25th, 1934.

Made and ordered entered on this the 19th day of November, A. D. 1934.

F. E. KENNAMER, District Judge.

Endorsed: Filed Nov. 19, 1934, H. P. Warfield, Clerk U. S. District Court.

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Objections of Preferred Stockholders to Claim of Standard Gas and Electric Company.

Now come John M. Taylor and William H. Taylor, objectors herein, and object to the allowance of the claim of Standard Gas and Electric Company in pursuance of the order of this court entered in the above-entitled cause on November 19, 1934, as order number fifty-six thereof, and in particular, Section Eleven thereof, and show unto this Honorable court, as follows:

One. That, objectors are owners of preferred stock of debtor corporation. That objector, William H. Taylor, is the owner of record of three hundred shares and objector, John M. Taylor, is the owner of record of two hundred and fifty shares of Seven Dollar Cumulative Convertible Preferred Stock of said debtor corporation.

Two. Objectors further show that there are fifty thousand shares of said preferred stock of said debtor corporation outstanding, which said preferred stock has a right, upon liquidation, to receive a sum equivalent to One Hundred Dollars per share, in addition to the payment of all cumulative dividends, before any distribution is made to the holders of common stock of said debtor corporation. That, as of February 28, 1933, being the time of the original receivership of said debtor corporation, there were unpaid cumulative dividends on said preferred stock in the sum of $758,333.33.

Three. That there are outstanding 599,475 shares of Common Stock without par value of said debtor corporation, of which 579,132 shares are owned by Standard Gas and Electric Company. That, of the 50,000 shares of the Preferred Stock of said debtor corporation, 969 shares are owned by said Standard Gas and Electric Company, and the remainder are held by the public at large, consisting of hundreds of individual holders who are scattered throughout the country. That the holders of said Preferred Stock are not represented

either individually or as a class in the above-entitled proceedings involving the reorganization of said debtor corporation. That the interests of the said holders of Preferred Stock as a class are widely divergent from the interests of the Creditors and also, greatly divergent from the interests of the holders of the Common Stock. That the position of the Trustee, appointed by this Honorable Court in the above-entitled cause as a representative of the Creditors of said corporation does not permit of his protection of the interests of the Preferred Stockholders. That, in all events, it is impracticable and undesirable that the Trustee should seek to protect conflicting interests in the same litigation. That the allowance or disallowance of the claim of said Standard Gas and Electric Company affects substantially the rights of the Preferred Stockholders in the assets of said debtor corporation. That the difference between the allowance or disallowance of the claim of said Standard Gas and Electric Company in the sum of $9,342,642.37, or in any other sum of substantial amount, may mean the difference between the preservation or destruction of the greatest portion of the equity of the holders of the Preferred Stock in the assets of said debtor corporation.

That, for the adequate protection of these objectors and the owners of Preferred Stock of said debtor corporation as a class, it is necessary and desirable that these objections be deemed as filed in behalf of these objectors, and in behalf of all of the holders of the Preferred Stock of said debtor corporation.

Four. Objectors herewith object to said claim of said Standard Gas and Electric Company for the reasons and in the manner and extent set forth by the objections filed to said claim in behalf of the Trustee herein as amended from time to time, reference to which objections are hereby prayed and which said objections as amended are incorporated herein and made a part hereof as fully as if set forth in full herein. That, in addition to the items to which objection is made by said Trustee, these objectors object to all other items contained in said claim for the reasons that the advancements claimed by said Standard Gas and Electric Company were never in fact made, except as bookkeeping transactions, and that, to the extent that any such advancements were made, the said advancements were, in effect, advancements by the Stand-

ard Gas and Electric Company to itself for which no claim can be properly filed in these proceedings.

Five. For further objection to said claim of said Standard Gas and Electric Company, these objectors show that said Standard Gas and Electric Company operated said debtor corporation as a subsidiary in such manner as to make said debtor corporation a mere instrumentality or *alter ego* of said Standard Gas and Electric Company. That said Standard Gas and Electric Company operates said debtor corporation for the enhancement of its own interests and without regard to the rights and interest of the preferred stockholders of said debtor corporation. That said Standard Gas and Electric Company burdened said debtor corporation with fraudulent and sham charges in connection with the fraudulent leasehold described in the objections filed by the Trustee herein, and in connection with exorbitant management charges and unwarranted and illegal charges of interest on so-called open account between the two companies. The facts with reference to said fraudulent domination of said debtor corporation by said Standard Gas and Electric Company are set forth in objections filed by said Trustee, and in the proofs that have heretofore been taken before the Special Master to whom the hearing on this claim has been referred, reference to which is hereby prayed. That, by virtue of the fraud, mismanagement, unlawful and inequitable conduct of said Standard Gas and Electric Company in its domination of said debtor corporation, the holders of the Preferred Stock of said debtor corporation are entitled to have the claim of said Standard Gas and Electric Company disallowed or, in any event, subordinated to the interests of the Preferred Stockholders from the standpoint of respective priorities in sharing in the assets of said debtor corporation.

Six. That a plan of reorganization has been submitted to this court by said debtor corporation which is unfair and inequitable and which seeks to wipe out in substance the equity of the Preferred Stockholders in said debtor corporation. That the attempt on the part of the said Standard Gas and Electric Company to wipe out the equity of the holders of the Preferred Stock of said debtor corporation will be substantially aided unless the rights and interests of the Preferred Stockholders are recognized and protected by the sub-

ordination of the claim of said Standard Gas and Electric Company.

Wherefore, these objectors, in behalf of themselves, and in behalf of all other holders of the Preferred Stock of said debtor corporation pray unto this Honorable court:

(a) That said claim of said Standard Gas and Electric Company be disallowed.

(b) That said claim of said Standard Gas and Electric Company be decreed to be inferior in right to the interests of the holders of Preferred Stock in said debtor corporation in any distribution of the assets of said debtor corporation and/or in consideration of any Plan of Reorganization of said debtor corporation.

(c) That the holders of Preferred Stock have such other and further relief in the premises to which they may be entitled in equity and good conscience.

Dated this 15th day of February, 1935.

(Signed) JOHN M. TAYLOR,
WILLIAM H. TAYLOR,
Objectors.

SEMPLINER, DEWEY, STANTON,
& *HOMIGMAN*,
By (Signed) JASON L. HONIGMAN,
Attorneys for Objectors.
Business Address: 2003 Dime Bank
Building, Detroit, Michigan.

Endorsed: Filed Feb. 21, 1935, H. P. Warfield, Clerk U. S. District Court.

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Petition of John M. and William H. Taylor, Preferred Stockholders, to Intervene.

To the District Court of United States of America, Northern District of Oklahoma:

Now come John M. Taylor and William H. Taylor, petitioners herein, and show unto this Honorable court as follows:

One. That petitioner William H. Taylor is the owner of record of 300 shares and petitioner John M. Taylor is the

owner of record of 250 shares of Seven Dollar Cumulative Convertible Preferred Stock of said debtor corporation.

Two. That, under date of November 19, 1934, this Honorable Court entered in the above-entitled cause its order entitled order No. 56 wherein paragraph eleven provided as follows:

"11. Objections to allowance of claims or evidence of interest.

"Objections in writing to the allowance of any claim of a creditor may be filed with the trustee on or before February 20, 1935, by any party in interest desiring to make such objection. Objections in writing to the allowance of any evidence of a stockholder may be filed with the trustee on or before February 20, 1935, by any party in interest desiring to make such objection."

That, pursuant to the provisions of the above quoted portion of said order, your petitioners did file with the Trustee herein, H. M. Greis, at his office in the Atlas Life Building, Tulsa, Oklahoma, objections to the claim of Standard Gas and Electric Company. That a copy of said objections is attached hereto, marked Exhibit A and made a part hereof, as fully as if set forth in full herein.

Three. That your petitioners are desirous of intervening herein for the purpose of urging the objections as set forth in said Exhibit A.

Four. That, for the reasons set forth in said Exhibit A, it is desirable and necessary for the protection of the interests of your petitioners and of the interests of the Preferred Stockholders as a class, that your petitioners and said Preferred Stockholders as a class be separately represented in connection with the objections urged in said Exhibit A against said claim of Standard Gas and Electric Company, and that there is at present no representation of said class in the above-entitled proceedings.

Five. That it is further necessary and desirable that your petitioners and the holders of the Preferred Stock of said debtor corporation as a class be represented in connection with the hearing on any proposed plan of reorganization of said debtor corporation. That the interests of the holders of Preferred Stock of said debtor corporation are different and divergent from those of all other classes of creditors and

stockholders, and that the rights and interests of the Preferred Stockholders can only be protected by separate representation in their behalf.

Wherefore petitioners pray that they may be permitted to intervene for the purpose of urging objections to the claim of Standard Gas and Electric Company, and for such other purposes as may be necessary and desirable in connection with the protection of the interests of your petitioners and of all other holders of Preferred Stock of said debtor corporation who are similarly situated.

Dated this 20th day of February, 1935.

JASON L. HONIGMAN,
Agent for John M. Taylor and
William H. Taylor, Petitioners.

MILSTEN & MILSTEN,
Beacon Life Building, Tulsa, Okla.
SEMPLINER, DEWEY, STANTON
& HONIGMAN,
Dime Bank Building, Detroit Mich.
Attorneys for Petitioners.

Endorsed: Filed Feb. 22, 1935, H. P. Warfield, Clerk U. S. District Court.

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Exhibit A.

Clerk's note: (This Exhibit is included in this Record as the pleading entitled: "Objections of Preferred Stockholders to Claim of Standard Gas and Electric Company," filed 2-21-35, omitted here pursuant to praecipe.)

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Order Permitting John M. and William H. Taylor to Intervene.

Now, on this 25th day of February, 1935, this matter came on for hearing on the application of John M. and William H. Taylor for permission to intervene for the purpose of presenting their claim as preferred stockholders, appearing by Sempliner, Dewey, Stanton and *Honegman,* and Milsten & Milsten, their attorneys, and the Trustee appearing by Ramsey, Martin & Logan, its attorneys, and the Standard Gas & Electric Company appearing by Gibson, Maxey & Holleman, and the court being fully advised in the premises, finds:

That said petitioners should be granted permission to intervene for the purpose of presenting and protecting their rights as the owners and holders of Seven Dollar Cumulative Convertible Preferred Stock of the debtor corporation.

It Is, Therefore, ordered that petitioners be, and they are hereby granted permission to intervene herein for the purpose of presenting their claim and for the purpose of protecting their rights as the owners and holders of Seven Dollar Cumulative Convertible Preferred Stock of the Debtor.

F. E. KENNAMER, Judge.

Endorsed: Filed Feb. 25, 1935, H. P. Warfield, Clerk U. S. District Court.

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Petition No. 64.

Petition for Authority to Compromise Claim of Standard Gas and Electric Company.

To the Honorable Franklin E. Kennamer, Judge of the District Court of the United States for the Northern District of Oklahoma:

The petition of H. N. Greis, Trustee in Bankruptcy of Deep Rock Oil Corporation, under Section 77b of the Bankruptcy Act, respectively shows:

(1) That on the 22nd day of June, 1934, Standard Gas and Electric Company, hereinafter referred to as "Standard", filed its claim herein against the Deep Rock Oil Corporation, hereinafter referred to as "Deep Rock", for $9,342,642.37, with interest from February 28, 1933, and on the same day your petitioner, as such Trustee, filed herein his objections to the allowance of said claim, and the claim and objections were referred by order of this court, made and entered June 22nd, 1934, to Preston C. West, Esquire, a member of the Bar of this court, as Special Master to take testimony offered by the claimant and by the Trustee and report all the evidence, together with his findings of fact and conclusions of law, to the Court.

(2) That on the 8th day of March, 1935, the Trustee by leave of court filed his amended objections to the allowance of the claim wherein the trustee made objections to specific items

of debits and also objected to the allowance of any part of the claim on a parity with the creditors of Deep Rock.

(3) That the taking of testimony before the Special Master in support of the claim and objections thereto has been completed.

(4) The claim of Standard is for (a) money loaned by Standard to Deep Rock on open account; (b) money paid by Standard to third parties for the account of Deep Rock; (c) dividends declared on the capital stock of Deep Rock belonging to Standard and charged by Standard to Deep Rock on open account; (d) interest at 7 per cent compounded monthly; (e) supervision fees charged by Byllesby Engineering and Management Corporation (a wholly owned subsidiary of Standard) amounting to over $1,219,000.00, (f) alleged rentals accruing to Deep Rock Oil and Refining Company amounting to $4,525,000.00, transferred to Standard, and (g) other items.

(5) The Trustee's objections to the allowance of the claim are predicated generally upon the following propositions: (1) that Deep Rock is and at all times was a department of Standard; that its separate corporate entity should be disregarded and all money loaned to or paid by Standard for Deep Rock should be treated as Standard's own capital investment and disallowed as a claim; (2) that if Deep Rock is not a department of Standard, the claim should not be allowed for an amount in excess of $3,458,087.44, with interest at the rate of 5 per cent per annum from February 28, 1933, on one theory, and not in excess of $3,239,416.79, with interest at the rate of 5 per cent per annum from February 28, 1933, on another theory, as pointed out in Trustee's amended objections, and (3) that if the debit item in Standard's claim of $840,672.00, Deep Rock dividends declared on December 31, 1928, on common stock owned by Standard, is not disallowed with 7 per cent compound interest thereon also eliminated, Standard's claim should not be allowed in an amount in excess of either $4,550,759.44 or $4,332,088.79, after allowing Standard's right to have reversed the two credit items aggregating $2,544,591.11 Standard credited to Deep Rock as of October 1, 1925, plus 5 per cent annual interest since that date.

(6) For a more detailed and complete statement of the

subject-matter of the controversy reference is made to the claim of Standard, the objections thereto by the Trustee, and to the record of the hearing before the Special Master, including the testimony of witnesses and the exhibits offered in evidence.

(7) The claim covers a period from June 1, 1919, to February 28, 1933, and includes total debits of $52,529,709.34 and credits of $43,187,066.97, and the controversy arising out of the claim and the objections thereto involves intricate and complicated questions of accounting, numerous questions of law, and questions of mixed law and fact. One of the questions of mixed law and fact is whether Deep Rock is a department of Standard. If so, the claim should be disallowed in its entirety and if not a mere department of Standard then the amount allowed will be on a parity with the claims of other creditors of Deep Rock, including a note issue in the principal sum of $10,000,000.00.

(8) Standard has submitted to the Trustee an offer in compromise and settlement of its claim whereby it proposes that its claim be allowed (a) on a parity with other creditors of Deep Rock in the principal sum of $2,376,076.31, with simple interest at 5 per cent per annum from date of advancements, that being the principal amount (after allowing Deep Rock credits for payments it made) paid by Standard to third parties not affiliated with Standard for the account of Deep Rock since February 24, 1928, for which Deep Rock was legally obligated to third persons, and (b) in subordination to the claims of other creditors of Deep Rock in the additional principal sum of $1,585,485.18, with interest on $1,597,985.18 from February 28, 1933, at 5 per cent per annum simple interest to August 5, 1933, and interest at the same rate on $1,585,485.18 from August 5, 1933. Standard also offers to cause the entire issued and outstanding stock of Deep Rock Oil and Refining Company, a Delaware corporation, consisting of 9,000 shares, to be transferred to the Trustee herein or to Deep Rock and to cause R. J. Graf, Trustee, to execute, acknowledge, and tender a deed conveying to the Trustee or to Deep Rock, as may be determined, the land covered by deed from Deep Rock to R. J. Graf, Trustee, dated December 6, 1922, together with all improvements thereon, and further offers to cancel and surrender promissory note of Jan-

uary 1, 1931, from Deep Rock Oil and Refining Company to Standard in the principal sum of $1,894,592.11, and to release any and all other claims against Deep Rock Oil and Refining Company. A copy of the offer in compromise and settlement is attached hereto and made a part hereof.

(9) The Trustee has given careful consideration to the offer in compromise and settlement and has consulted his counsel, and because of the numerous questions of law and fact presented by the controversy between Standard and Deep Rock, the Trustee believes the offer in compromise and settlement to be fair and that its acceptance would be proper and most for the interests of the estate.

Wherefore, the Trustee recommends that he be authorized to compound and settle the controversy with Standard growing out of its claim against Deep Rock and the Trustee's objections thereto by accepting Standard's offer in compromise and settlement.

Dated this 8th day of March, 1935.

H. N. GREIS, Trustee.

GEO. S. RAMSEY,
EDGAR A. de MEULES,
VILLARD MARTIN,
GARRET LOGAN,
Counsel for Trustee.

Endorsed: Filed March 8, 1935, H. P. Warfield, Clerk U. S. District Court.

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Offer of Standard Gas and Electric Company in Compromise and Settlement.

In the above cause all of the matters contended by either party are contested by the other and have not yet been determined and recognizing the urgent necessity for an early termination of the litigation and the reorganization of the Deep Rock Oil Corporation, Standard Gas and Electric Company, as a compromise and settlement only, offers, subject to the final approval of this compromise, to receive in satisfaction of its claim herein:

(A) the principal sum of.....$ 2,376,076.31;
interest on said principal sum at the rate of five per cent per annum from the dates of the several advances constituting said sum to February 28, 1933, being..... 407,886.18;
and in addition thereto interest on said principal sum of $2,376,076.31 at the rate of five per cent per annum from February 28, 1933, to the date of entry of judgment on this offer; the aggregate of such amounts to be on a parity with the $10,000,000 principal amount of notes of Deep Rock Oil Corporation, dated March 1, 1928, and interest thereon at the rate per annum allowed by the court in this cause from March 1, 1933, to date of entry of judgment on this offer, and with other indebtedness of Deep Rock Oil Corporation to other persons; and

(B) the sum of ..... 1,585,485.18
with interest on $1,597,985.18 from February 28, 1933, at five per cent per annum simple interest to August 5, 1933, and interest on $1,585,485.18 at five per cent simple interest per annum from August 5, 1933, to the date of entry of judgment on this offer, which judgment for the principal sum of $1,585,485.18, with interest as specified, shall be subordinated to the claims of all other creditors of Deep Rock Oil Corporation, including the holders of the ten million dollar note issue.

Standard also offers as a part of this compromise to cause the entire issued and outstanding common stock of the Deep Rock Oil and Refining Company, consisting of 9,000 shares, to be transferred to the trustee herein, or to Deep Rock Oil Corporation, and to cause R. J. Graf, Trustee, to execute, acknowledge and tender a deed conveying to the Trustee or to the Deep Rock Oil Corporation, as may be determined, the land covered by the deed from Deep Rock Oil Corporation to said R. J. Graf, Trustee, dated December 6, 1922, together with the improvements thereon, which said deed and certifi-

cate for said 9,000 shares of common stock shall be attached to this offer and delivered to the trustee upon the approval of this compromise and settlement by the court. In the event of the approval of this offer of compromise and settlement the said deed and stock certificates shall be delivered to the Trustee, and in the event of the disapproval of this offer of compromise, shall be returned to said R. J. Graf, Trustee, and to Standard Gas and Electric Company.

Standard Gas and Electric Company also offers as a part of this offer of compromise to surrender the promissory note of Deep Rock Oil and Refining Company dated January 1, 1931, in the principal sum of $1,894,592.11 and all other claims of Standard against Deep Rock Oil and Refining Company.

This 8th day of March, 1935.

STANDARD GAS AND ELECTRIC COMPANY,
By JOHN J. O'BRIEN, President.

H. N. Greis, Trustee herein, recommends to the court the acceptance and approval of the above offer of compromise and settlement. This 8th day of March, 1935.

H. N. GREIS, Trustee.

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Order No. 64.

Order of Reference.

Now on this 8th day of March, 1935, the above entitled cause comes on for hearing on (1) the petition of H. N. Greis, Trustee, for authority to compound and settle the controversy with Standard Gas and Electric Company arising out of its claim against Deep Rock Oil Corporation, (2) the amended objections of the Trustee to said claim, and (3) Standard's reply thereto, and it appearing that (a) the claim and objections have heretofore been referred by this court to Preston C. West, Esquire, a member of the bar of this court, as Special Master, (b) the taking of testimony before the Special Master has been completed, and (c) Standard Gas and Electric Company has submitted to the Trustee an offer in compromise and settlement of its claim, the acceptance of which is recommended by the Trustee,

Now, Therefore, It Is Ordered by the Court that the petition of the Trustee for authority to compound and settle the

controversy by agreement with Standard Gas and Electric Company be, and the same is hereby, referred to Preston C. West, Esquire, as Special Master, and he, the said Special Master, is hereby directed to (a) set a day for hearing said petition and to notify all creditors who have filed claims against Deep Rock Oil Corporation in the above proceeding of said hearing by mail at least ten (10) days before the date set for said hearing and to cause notice of the hearing to be published in the Chicago Tribune and the Tulsa Daily World at least ten (10) days before the hearing; (b) hear the petition of the trustee and consider the proposed compromise and settlement and any objections that may be made thereto and report to the court in writing his findings and recommendations thereon at an early date.

F. E. KENNAMER, Judge.

O.K. N. A. Gibson, Atty. for Standard Gas & Electric Co., Geo. S. Ramsey of Counsel for Trustee.

Endorsed: Filed March 8, 1935, H. P. Warfield, Clerk U. S. District Court.

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Amended Objections of the Trustee in Bankruptcy to the Claim Filed by the Standard Gas and Electric Company, a corporation, as an Alleged Creditor.

Comes now H. N. Greis, Trustee of the Deep Rock Oil Corporation, petitioner in the above styled cause, and objects (1st) to the allowance of all or any part of Standard's claim (more specifically set forth in Exhibit A thereto) for the reasons hereinafter set out, and (2nd) if Standard is found to occupy the status of a creditor of Deep Rock, then the Trustee objects to certain debits and charge items therein hereinafter pointed out, and for amended objections says:

That certain corporations hereinafter named will be referred to as follows:

(a) Standard—for Standard Gas and Electric Company.

(b) Deep Rock—for Deep Rock Oil Corporation (named originally Shaffer Oil and Refining Company).

(c) Refining Company—for Deep Rock Oil and Refining Company.

(d) Eng. and Manag. Corp.—for Byllesby Engineering and Management Corporation.

(e) Byllesby and Company—for H. M. Byllesby and Company.

(1) The Trustee avers:

(a) That Byllesby and Company is a corporation organized under the laws of Delaware on January 14, 1904, and was originally an engineering and financing corporation, but in 1919 became almost solely engaged in the investment banking business; that Byllesby and Company and Standard are now and have been for 18 years last past closely allied corporations.

(b) That Standard is a corporation organized under the laws of the State of Delaware on April 28, 1910, and was up until about 1919 largely an investment company, investing in common stocks ordinarily and sometimes in preferred stocks and bonds of public utility corporations; that from 1919 on it has been engaged in the business of managing corporations as well as the ownership in its own right of various stocks and bonds; also from 1919 on Standard entered into the management and engineering of public utility properties as well as owning their stocks and bonds; that Standard has not purchased and operated in its own name public utility properties, and in fact does not now own, nor has it owned, any physical properties other than office furniture; Standard has charged its subsidiary corporations management, supervision and engineering fees.

(c) Eng. and Manag. Corp. is a corporation organized under the laws of Delaware on June 21, 1919. The Standard caused its organization and incorporation; its stock consists of 100,000 shares of no par value, now and at all times wholly owned by Standard; it pays the salaries of the Standard's officers and employees and has paid them since 1919; Standard does not and has not at any time paid the salaries of its officers or employees, nor has it paid any office rent, its office rent and the expenses and salaries of its officers and employees having been paid by the Eng. and Manag. Corp. The Eng. and Manag. Corp. has no properties other than a library and necessary tools of its engineering department—the kind of tools craftsmen use, such as tables, desks, maps, and things of that sort, including drawing instruments, blue

prints, etc. It does not own any other property. The 100,000 shares of no par Eng. and Manag. Corp. stock were issue to the Standard in exchange for certain securities never assigned by the Standard or the Eng. and Manag. Corp. any ledger or book value, but carried on the Standard's books at a valuation of $1.00; that the Eng. and Manag. Corp. was organized and has at all times existed as a mere agency, adjunct, and department of the Standard, and its every act, contract and transaction was the act, contract and transaction of the Standard, and the Standard and Eng. and Manag. Corp. have existed and should be treated and adjudged as one corporate entity; a large and perhaps major part of Standard's business since 1919 has been carried on and transacted in the name of and through the Eng. and Manag. Corp.; the entire earnings of the Eng. and Manag. Corp. have accrued to Standard, which has received them through the declaration and payment of Eng. and Manag. Corp. dividends; that by and through the Eng. and Manag. Corp. the Standard levied tribute on Deep Rock and its, Standard's, subsidiary utility corporations through the guise of unearned management and supervision fees; that this was a scheme of Standard's to build up a large balance in its favor by padding expense accounts with useless, unreasonable and unnecessary management, engineering and supervision fees; that the Standard, through the Eng. and Manag. Corp., charged its public utility subsidiary corporations a percentage of their gross annual income as management and supervision and engineering fees, and for the year 1921, charged the Deep Rock, as management and supervision fees for that year, the sum of $99,034.83, same being one and one-fourth per cent of Deep Rock's gross earnings.

That on May 20, 1919, Byllesby and Company entered into a written contract with C. B. Shaffer for the organization of a corporation to acquire title to certain oil properties and a refinery from C. B. Shaffer, said oil properties, refinery and stocks in other oil corporations being largely situated in Oklahoma; that under said contract Shaffer obligated himself to cause to be formed a corporation under the laws of Delaware with an authorized issue of 500,000 shares of common stock without par value, and 500,000 shares of preferred stock of the par value of $100.00 per share, which corporation was to issue first mortgage bonds in the sum of $15,000,000.00; the common stock without par value was to

be sold at $1.00 per share; the preferred stock was to be non-voting, 7 per cent cumulative from date of issue; the bonds were to be ten year first mortgage bonds bearing interest at the rate of six per cent per annum with an annual sinking fund graduated so as to amortize the bonds in ten years; Byllesby and Company obligated itself upon the formation of the corporation to purchase from it $11,000,000.00 par value of its bonds and $5,000,000.00 par value of its preferred stock and 120,000 shares of its non-par value common stock, valued at $1.00 per share, and pay therefor $15,200,000.00 in cash. The cash was to be applied in payment of the cash consideration going to Shaffer for certain properties described in the contract. The oil leases of the Theta Oil Company in Kansas, developed and undeveloped, including the equipment of wells operated and in process of drilling, etc., were to be conveyed to the new company; also there was to be conveyed to the new company the properties of the Consumers Refining Company, including its stock in the Home Oil Company and its real estate held in fee, together with all improvements consisting of stills, buildings, tanks, and a complete oil refining plant with appurtenances, tank cars, iron barrels, furniture, fixtures, merchandise, supplies, etc. The said refinery was located at Cushing, in Payne County, Oklahoma; Shaffer was to receive (1) $7,000,000.00 in cash, (2) six per cent note of Byllesby and Company and Standard for $1,000,000.00 due in four months, to be secured by 10,000 shares par value of the preferred stock of the new company, (3) 44,000 shares of preferred stock of the new company, (4) 80,000 shares of common stock of the new company, at a valuation of $1.00 per share, (5) an additional 6,000 shares of the new company's preferred stock for the Theta Oil Company properties, (6) an additional sum of $2,500,000.00 in cash for the Consumers Refining Company properties, and (7) in addition the new company was obliged to pay Shaffer all taxes assessed by the Federal Government for the calendar year of 1919 arising from the profits on Shaffer's sale of certain properties therein, all of which more specifically appears in said contract; that the new company, as provided by the contract of May 20, 1919, was organized under the laws of Delaware on May 31, 1919, under the name of "Shaffer Oil and Refining Company" with all the usual "catch-all" and blanket powers of a Delaware corporation, including specific powers to own and operate oil refineries and market

the refined products and own and operate oil and gas leases, etc.; that effective March 31, 1931, the name of Shaffer Oil and Refining Company was changed by an amendment of its Certificate of Incorporation to "Deep Rock Oil Corporation"; that Shaffer conveyed to the new corporation the properties he was required to convey to it by the contract of May 20, 1919, and received payment therefor in accordance with the terms of said contract; that by said contract of May 20, 1919, it was agreed that Shaffer and his associates should enjoy equal control of the new corporation—Deep Rock—with Byllesby and Company or Standard, and to guarantee this they agreed in the contract to form a voting trust of all the common stock, which trust should exist for a period of ten years, and Shaffer and Byllesby and Company agreed to deliver or cause to be issued to trustees certificates of the capital stock of the new company and record the transfer thereof on the company's transfer books, and each party was to name two of the trustees. This proceeding was carried out by the parties so as to enable Shaffer and his associates to have equal control over the Deep Rock, although Shaffer owned only 80,000 shares of common stock, the voting stock, and Standard owned 120,000 shares of the common, the voting stock; thereafter and on March 14, 1921, Shaffer and the Standard (the Standard in the meantime having succeeded Byllesby and Company as stockholder in the new company) entered into an agreement whereby Shaffer and his associates surrendered to Deep Rock $5,000,000.00 of preferred and 40,000 shares of common stock and retired from the Deep Rock and turned the complete control and management of the Deep Rock over to the Standard; that the Deep Rock's preferred stock had no voting power except in case of a six months' default in the payment of the seven per cent dividends, its voting power to be lost upon the resumption of the payment of dividends thereon; that Standard, at all times since March 14, 1921, has owned from 95 to 98 per cent of the Deep Rock's common stock and at no time has the preferred stock, even if vested with voting power, been outstanding in sufficient amount to represent a vigorous minority; that only $12,000,000.00 of Deep Rock's first mortgage bonds were sold, although $3,000,000.00 of said first mortgage bonds were shortly thereafter pledged to secure a note issue of $2,000,000.00, and as appears from the financial structure of the Deep Rock, it begun business short of capital.

That the Refining Company is a corporation organized under the laws of Delaware on February 26, 1923, with an authorized capital stock of 15,000 shares, without nominal or par value; that its Articles of Incorporation conferred upon it substantially the same powers conferred upon the Deep Rock by its Articles of Incorporation; that the first mortgage bonds of the Deep Rock were secured by a first mortgage on all of its tangible and intangible assets, including its refinery at Cushing, Oklahoma, and all the land upon which it was situated; that the Refining Company was organized for the fraudulent purpose of evading the lien of the holders of the Deep Rock's first mortgage bonds then outstanding in that the Standard and the Deep Rock contemplated the Deep Rock's investment of several millions of dollars in additional leases and the cracking plant, which, if acquired in the name of the Deep Rock, would fall under the lien of the mortgage to secure Deep Rock's 1919 bond issue; that under the terms of the first mortgage any permanent improvements placed on the land covered by the mortgage would fall under the lien of the mortgage and under the covenants in the mortgage all leases, oil properties, and all other kind of property acquired by the Deep Rock in its own name after the execution of the mortgage, would come under the lien of the mortgage to secure the bonds; that in the summer of 1922 is became apparent that the Deep Rock could not successfully and profitably operate its Cushing refinery without constructing and installing as an adjunct to its refinery what is known as Dubbs cracking stills, to be used in cracking up the residuum after the gasoline and lighter products were taken off in the Deep Rock's refinery or what is called a "skimming plant"; that the construction and installation of the cracking stills entailed the expenditure of several hundred thousand dollars and if constructed on the land belonging to the Deep Rock would immediately fall under the lien of the first mortgage to secure the Deep Rock's ten year bonds, and in order to avoid the lien, the Standard, in absolute control of the Deep Rock, had the Deep Rock convey to one of Standard's and Deep Rock's officers and directors, R. J. Graf, title to several little strips and dots of land situated in the refinery plant grounds; that there was a written contract entered into between Deep Rock and R. J. Graf, as Trustee, on July 1, 1922, whereby the Deep Rock agreed to convey to said Graf, as Trustee, certain therein described small par-

cels of land in the Refining Company grounds for the consideration of $2,906.25, which Graf never paid. As a matter of fact R. J. Graf was trustee for the Deep Rock, and although R. J. Graf entered into the contract with the Universal Oil Products Company in July, 1922, for the construction of the Dubbs stills and a license to practice the Universal Oil Products Company's process of cracking up oils, he acted as trustee for the Deep Rock and not the Standard or the Refining Company, which was not then in existence; that the construction of the Dubbs cracking stills on the small parcels of land conveyed to R. J. Graf, trustee, was commenced along in July or the first of August, 1922, and was completed along the first part of February, 1923, at a cost of several hundred thousand dollars, all of which was paid by the Deep Rock; that said cracking plant was absolutely necessary to the successful and profitable operation of the Deep Rock's Cushing refinery and constituted a part of the Deep Rock's Cushing refinery; that during the latter part of 1922 and the first part of 1923 the Deep Rock found itself in need of additional developed and undeveloped oil and gas leases for the purpose of supplying its Cushing refinery with crude oil; that in order to evade the lien of its first mortgage bonds on any additional developed and undeveloped oil leases it acquired, Deep Rock purchased from the Bradstreet Oil Company on February 15, 1923, certain oil leases, developed and undeveloped, in Oklahoma, Kansas and Arkansas, with invoices, for a consideration of $650,000.00, all of which was paid by Deep Rock; that instead of the Deep Rock taking title from the Bradstreet Oil Company to the oil and gas mining leases and inventories purchased by it from said Bradstreet Oil Company and paid for by it, Deep Rock took the title in the name of one of its employees, J. C. Kennedy, Trustee, and entered into possession of the oil and gas leases with the improvements thereon and operated the same and appropriated to its own use and benefit all the proceeds thereof and paid all the expenses pertaining to their operation, and with its own money purchased in the name of J. C. Kennedy, Trustee, other and additional oil leases, the cost of which, up to October 1, 1925, added to the cost of development, amounted to $1,033,294.32; Deep Rock, in the meantime expended prior to October 1, 1925, $861,297.79 in the construction and installation of the Dubbs cracking stills, etc., and additions thereto; that the Deep Rock, from the completion of the cracking plant in February, 1923, and

from the acquisition of the oil and gas leases, etc., from the Bradstreet Oil Company, hereinafter referred to as "Bradstreet properties", operated said cracking plant, paid the royalties accruing to the Universal Oil Products Company under Graf's license from it, and operated and developed the Bradstreet properties as its own property, paid all the expenses thereof, and appropriated all the income therefrom and exercised complete control and dominion over said cracking plant and the Bradstreet properties in the same manner as if the title had stood in the name of the Deep Rock; that from the time the Deep Rock began operating the Dubbs cracking stills, herein referred to as the cracking plant, and from the time it took over the Bradstreet properties in February, 1923, up to October 1, 1925, a period of two years and seven months, the total earnings from the operation of both properties, without allowing anything for depreciation and depletion otherwise than abandonment of leases, cost of dry holes, etc., was $1,489,628.79; that in March, 1923, 9,000 shares of the Refining Company stock were issued in the name of various individuals; among the number there was issued to J. C. Kennedy, Trustee, a certificate for 8,990 shares; the other ten shares were issued to Deep Rock's nominees, and they and Kennedy held said 9,000 shares as trustees for the Deep Rock, and thereafter and on the same day, March 22, 1923, Kennedy surrendered his certificate No. 7, and a new certificate, No. 8, was issued to M. A. Morrison for 8,990 shares of the Refining Company's stock; that M. A. Morrison was at that time a director of the Deep Rock, Standard. Eng. and Manag. Corp., and Byllesby and Company, and held the stock as Deep Rock's nominee and trustee; thereafter and in December, 1925, the Standard, being in absolute control of the Deep Rock through stock ownership and actually exercising absolute and plenary control over all of its affairs, business and property, devised a scheme whereby there should be book entries made to show that the Standard had purchased, on October 1, 1925, from the Deep Rock all of the shares of the Refining Company stock for a consideration of $649,999.00, (that being the cost of the Bradstreet properties and inventories less $1.00 which has disappeared and is not accounted for in the record); that the Standard's general auditor, acting under Standard's directions and without consulting the Deep Rock or its Board of Directors, directed the Deep Rock's auditor to set up on

the Deep Rock's books an entry showing that the Standard had purchased the Refining Company's stock for a consideration of $649,999.00, for which amount Standard would give Deep Rock credit on its open account against Deep Rock, and also without consulting the Deep Rock's officers and Board of Directors and without their approval, Standard's general auditor directed the Deep Rock's general auditor to charge Standard with the sum of $1,894,592.11 as of October 1, 1925, same being the amount of money Deep Rock had expended in the construction and installation of the Dubbs cracking plant and the development of the Bradstreet properties and acquisition of new leases thereto, which Deep Rock's general auditor, being absolutely subservient to the Standard, obeyed, and the Standard thereupon, in December, 1925, gave Deep Rock credit, as of October 1, 1925, on its open account against the Deep Rock in the sum of $1,894,-592.11, and thereupon charged the same to the Refining Company and later on in 1926 took the Refining Company's note for that sum of money, and has continued to carry the note and its renewals from that day to this; that as a part of this scheme the Standard had prepared in Chicago an instrument whereby the Deep Rock leased from the Refining Company, for a period of five years, the Bradstreet properties and additions thereto and the cracking plant standing in the name of R. J. Graf, Trustee, for the consideration of $75,000.00 per month for each of the months, October, November and December, 1925, and $50,000.00 per month for the remaining four years and nine months of the lease; that Standard had this lease prepared without consulting the officers or directors of the Deep Rock or the Refining Company and had one of its own officers in Chicago, who was also Vice-President of the Deep Rock, execute the lease on behalf of the Deep Rock, and also had one of its officers, who was also assistant secretary of the Deep Rock, attest the execution of the lease by the Deep Rock, and then in March, 1926, sent the lease to the Deep Rock's Tulsa, Oklahoma office with directions to have John L. Gray, President of the Refining Company, execute the lease on behalf of the Refining Company, and have it attested by W. R. Francisco, the Refining Company's secretary; John L. Gray and W. R. Francisco, although officers of the Refining Company and the Deep Rock, were absolutely subservient to Standard and in obedience to Standard's directions, without any authority from the Board

of Directors of either of said corporations, executed the lease in March, 1926, on behalf of the Refining Company under date of October 1, 1925.

Your trustee further avers that by the terms of this lease (shown by Exhibit A hereto attached) the Deep Rock was not only bound and obligated to pay the $75,000.00 per month rental for the months of October, November and December, 1925, and $50,000.00 per month thereafter for four years and nine months, but also as additional consideration for the lease obligated itself to pay all royalties to Universal Oil Products Company and to advance all working capital necessary for any additions to or betterments to the leased property and to pay and account for all operating expenses, interest, depreciation and depletion in connection with said properties, and to pay any and all carrying charges that might be incurred in connection with the said property, and provided that any additional properties acquired by the Deep Rock should become the property of the Refining Company though paid for by the Deep Rock. In other words, the Deep Rock was obligated not only to pay the cash rental but at the end of the lease was obligated to restore the property to the Refining Company with sufficient additions and betterments to equal the value of the property at the time the lease was executed, or pay for all depreciation and depletion.

The trustee further avers that the Deep Rock, during the term of said lease shown by Exhibit A hereto attached, under and by virtue of the provisions thereof and obligations imposed, lost in the operation of the cracking plant and the Bradstreet properties more than half a million dollars; that it lost heavily on the Bradstreet properties during the years 1927, 1928 and 1929, and during the year 1930 suffered a net loss of $261,502.73, and suffered a net loss in the operation of the cracking plant during the year 1930 in the sum of $111,677.77; that in the fall of 1930, and especially December of that year, the business of producing crude oil, refining it first through skimming plants and then through cracking stills, and marketing and selling the refined products was at a low ebb and Deep Rock was in economic distress on account of low prices and overproduction; that the United States, and especially the territory in which the Deep Rock did business, was in the midst of the worst economic and financial depression the world has ever witnessed; that the outlook

for the Deep Rock's business was gloomy and on account of unsettled financial conditions over the entire United States it was extremely unwise and hazardous to make long time contracts; that in spite of this condition and in the face of a dark and gloomy financial future the Standard, through its domination and control of the Deep Rock, did on December 20, 1930, order and direct the Executive officers of the Deep Rock and the Refining Company to renew said lease shown by Exhibit A hereto as of October 1, 1930, and on that date, to-wit, December 20, 1930, the Refining Company, by John L. Gray, President, attested by W. R. Francisco, secretary, executed the renewal lease on behalf of the Refining Company, and L. B. Riddle, as Vice-President, and O. O. Kerr, as assistant secretary, executed and attested the lease on behalf of the Deep Rock, by the terms of which the Refining Company leased to the Deep Rock, for a period of five years beginning October 1, 1930, the cracking plant still standing in the name of R. J. Graf, Trustee, and also the Bradstreet properties and additions thereto, for an annual rental of $600,000.00 payable at the rate of $50,000.00 per month; that neither the lease of October 1, 1925, nor its renewal executed December 20, 1930, and shown by Exhibit B hereto attached, was submitted to or approved by the Board of Directors of the Deep Rock or the Refining Company but executed by their executive officers on the direction of the Standard; that under the terms of said renewal lease shown by Exhibit B the Deep Rock not only obligated itself to pay an annual rental of $600,000.00 for a period of five years, but also to pay and account for all the operating expenses, interest, depreciation and depletion in connection with said property, and to pay any and all carrying charges that might be incurred in connection with said property, and obligated itself to pay the cost of any additional oil leases not covered by Exhibit B acquired in the name of the Refining Company; that the Deep Rock continued to operate the Bradstreet properties, additions thereto, and the cracking plant from and after October 1, 1930, until the appointment of receivers for the Deep Rock of February 28, 1933, and suffered an operating loss thereon in the sum of $1,584,458.05, and in addition thereto expended for the cost of permanent improvements and additions to the cracking plant, such as stills, towers, condensers, treaters, boilers, engines, pumps, testing plants, etc., $524,907.81, and a large sum of money for additions to the Bradstreet prop-

erties; that the receivers, upon taking possession of the Deep Rock's properties on March 1, 1933, took over and operated the cracking plant and the Bradstreet properties at a net loss of $136,229.30 for the last ten months of the year 1933; that during the term of both of said leases shown by Exhibits A and B hereto attached the Refining Company charged the Deep Rock on its books the sum of $75,000.00 for each of the months of October, November and December, 1925, and $50,000.00 per month thereafter, and would thereafter, (and without any money changing hands) go through the formality of declaring a dividend in favor of the Standard equivalent to the monthly rental charged, which Standard thereupon charged to the Deep Rock on its open account, which appears as the 26th item of charges in Exhibit A to Standard's claim in the total sum of $4,525,000.00.

That on July 31, 1926, Standard charged Deep Rock on its open account (shown by Exhibit A to Standard's claim) $575,000.00, same being composed of $225,000.00 rental for the last three months of 1925, and $50,000.00 for each of the first seven months of 1926; thereafter Standard, on the last day of each of the last five months of 1926, charged Deep Rock with rental under respective items entitled "balance assumed, $50,000.00", this making the total of $825,000.00 shown in Exhibit A to Standard's claim as charged against the Deep Rock by Standard in 1926; thereafter Standard, on the last day of each month, charged Deep Rock with $50,000.00 under book entries entitled "DRO&R Co. (meaning Deep Rock Oil and Refining Company) balance assumed, $50,000.00" down to and including January, 1928, making a total of $1,475,000.00 rental debits in Standard's open account shown by Exhibit A charged against Deep Rock; that in April, 1928, Deep Rock paid Standard its entire open account balance up to February 24, 1928, amounting to $6,836,195.86, which included the $1,475,000.00 rentals from October 1, 1925, to January 31, 1928; that the above said payment was made by Deep Rock by transferring to Standard its common stock at a valuation of $50.00 per share; that thereafter Deep Rock paid Standard by its checks sums which Standard credited to Deep Rock as payment of the rentals for the months of May, June, July, August, September and October, 1928, (totaling $300,000.00), November, 1932, December, 1932, January, 1933, and February, 1933, just three days before Deep

Rock's receivership, (totaling $200,000.00), which Standard credited as payment of rentals since April, 1928, leaving unpaid and charged in Exhibit A to Standard's claim the sum of $2,550,000.00, which should be disallowed.

That the Refining Company was organized, and has existed at all times since its organization, as an agency, adjunct and department of the Deep Rock, and that the Deep Rock, before and after the execution of the October 1, 1925, lease shown by Exhibit A hereto, operated (a) the cracking plant standing in the name of R. J. Graf, Trustee, and (b) the Bradstreet properties and additions thereto obtained in the name of J. C. Kennedy, Trustee, as a complete unit and as a single enterprise; that the Refining Company never received any money for its capital stock, never had or handled any money in its own name or through any agency, never had a bank account, never borrowed any money, never paid out any money, never in fact had any money, and never transacted any business; that the Refining Company has never been in possession of the cracking plant, Dubbs stills, auxiliaries, etc., never paid its officers any salaries and never had any employees of its own; that its officers were Deep Rock officers who drew their salaries from the Deep Rock; that the Refining Company is not now and never was an operating company and never paid any office rent before or after the lease of October 1, 1925, but used the Deep Rock's offices; it never paid for any telephone or telegraph service; it never paid any taxes, and all the state and federal income taxes assessed against it were paid by the Deep Rock or filed as a claim against the Deep Rock's receivers.

Your trustee further avers that the Standard at all times since March, 1921, by virtue of its ownership of from 95 to 98 per cent of Deep Rock's voting stock, has elected the Deep Rock's Board of Directors and in doing so has elected as the large majority of Deep Rock's directors, Standard's officers and directors, and the Eng. and Manag. Corp's. officers and directors; that since March, 1921, those members of the Deep Rock's Board of Directors who were not Standard directors, or Eng. and Manag. Corp. directors, or Byllesby and Company officers and directors were hired and employed by the Standard and absolutely dominated and controlled by the Standard, and were nc more nor less than dummy directors and Standard's agents who exercised no independent judgment of their

own, but at all times were obedient and absolutely subservient to the suggestions, orders and directions of the Standard; that the Standard at all times since the organization of the Deep Rock has owned a substantial part of the Deep Rock's preferred stock; that the Standard at all times since March, 1921, not only possessed the power to control Deep Rock and all the Deep Rock subsidiary corporations, but actually has exercised plenary, absolute and unopposed control over Deep Rock and the Refining company.

The trustee avers that the lease of October 1, 1925, shown by Exhibit A hereto and the lease executed December 20, 1930, running from October 1, 1930, shown by Exhibit B hereto, were nothing more nor less in effect than leases from Deep Rock, as the lessor, to itself, as lessee, but as such operated and were intended by Standard to operate as mere conduits through which Deep Rock's money and income could be diverted to the Standard and withdrawn from the Deep Rock's profits to the great injury of the Deep Rock, its preferred stockholders and creditors; that each of said leases was a fraud on the Deep Rock and its stockholders and creditors; that by virtue of said leases the Refining Company was given the appearance of having accumulated taxable incomes during the years 1925, 1926 and 1927; that the Federal Government assessed an income tax against the Refining Company for the year 1925 in the sum of $29,565.91, which Standard paid and charged to the Deep Rock, as shown by Exhibit A to Standard's claim; that the lease of October 1, 1925, also gave the Refining Company an apparent taxable income for the years 1927 and 1928; that the Federal Government assessed the Refining Company the sum of $162,000.00 for income taxes for the years 1927 and 1928 which Standard paid and charged to the Deep Rock; that as a matter of fact no such income was ever realized by the Refining Company and the payment by the Deep Rock was an absolute loss occasioned by the Standard's conduct in having the lease of October 1, 1925, executed by the Deep Rock and the Refining Company.

The trustee avers that both of said leases shown by Exhibits A and B hereto were fraudulent devices contrived by Standard in order to enrich itself to the great injury of the Deep Rock and its stockholders and creditors; that both of said leases should be adjudged unconscionable, fraudulent, and as such, null and void; that the rentals paid by the Deep

Rock accruing under said leases before and after February 29, 1928, should be treated as payments on Standard's open account balance against Deep Rock after eliminating all debits in Standard's account therein contained for rentals under said leases; that the $3,050,000.00 rentals charged in Standard's open account after January 31, 1928 and shown by Exhibit A to its claim, should be disallowed and all the interest charged by Standard on said unpaid rentals should be disallowed, and the interest charged by Standard on its open account against Deep Rock for interest on the rentals paid by the $500,000.00 heretofore pointed out should also be eliminated and disallowed and the $500,000.00 paid as rentals since April, 1928, should be adjudged payments on Standard's open account balances after eliminating all rental debits and charges.

That the Trustee is entitled to a judgment by way of set-off against Standard for the Refining Company's 1925 Federal income taxes in the sum of $29,565.91, its Federal income taxes for the year 1926 in the sum of $81,000.00, and its Federal income taxes for the first quarter of 1927, in the sum of $20,250.00, making a total of $130,815.91, wrongfully charged Deep Rock, all of which constituted a part of the Standard's open account balance paid by the Deep Rock by the issuance to Standard of its common stock in April, 1928.

That thereafter, and in June, 1928, Standard wrongfully charged Deep Rock with the Refining Company's Federal income taxes for the second quarter of 1927, in the sum of $20,250.00, and in September, 1928, wrongfully charged Deep Rock with the Refining Company's Federal income taxes for the third quarter of 1927, in the sum of $20,250.00, and in December, 1928, wrongfully charged Deep Rock with the Refining Company's Federal income taxes for the fourth quarter of 1927, in the sum of $20,250.00, making a total of $60,750.00 which should be disallowed and eliminated from Standard's account.

These Refining Company income taxes were the direct and immediate result of the unconscionable, unfair and void lease entered into by the Refining Company and the Deep Rock as of October 1, 1925, shown by Exhibit A hereto attached. This lease created a fictitious Refining Company income of $50,000.00 a month upon which the Federal Government assessed an income tax which was the direct result of the Standard's

wrongful act, and in fact was fictitious and wrongfully charged to the Deep Rock, and but for said fraudulent lease the Refining Company would not have been liable for any Federal income tax.

Your trustee also objects to the 15th item in the debits and charges in Exhibit A to Standard's claim, to-wit, "Interest on open account balances, $4,819,222.07," because said interest is illegal and unlawful in that it was charged into Standard's open account monthly balances against Deep Rock at the rate of seven per cent per annum, which was in effect compounding the interest; that the Standard never complied with the constitution and statutes of Oklahoma regulating the admission of foreign corporations to do business in Oklahoma; that the Standard has at no time done business in Oklahoma but has at all times maintained its offices and principal place of business in Chicago, Illinois; that the Standard, a Delaware corporation, has complied annually with the laws of Illinois regulating the admission of foreign corporations to do business in that state; that the alleged contracts between Deep Rock and Standard under which Standard advanced and loaned the money to Deep Rock on open account and upon which Standard has charged into its account shown by Exhibit A to its claim interest at the annual rate of seven per cent calculated on monthly balances against Deep Rock, were oral and made in Chicago, Illinois, and Chicago, Illinois, was the place of payment and performance under the said contracts and agreements; that the statutes of Illinois control the rate of interest Standard was and is entitled to charge on its open account against Deep Rock; that under the statutes of Illinois, in the absence of a written contract signed by the Deep Rock or some authorized agent on its behalf, interest at the rate of five per cent per annum is the lawful and reasonable rate; that the parol contract between Standard and Deep Rock whereby Deep Rock was to pay Standard interest at the rate of seven per cent per annum is illegal and void and unenforceable; that under the laws of the State of Illinois compound interest cannot be recovered; that all of item 15 in Exhibit A to Standard's claim entitled "Interest on open account balances, $4,819,222.07" should be disallowed and interest calculated at the annual rate of five per cent substituted therefor; that no interest, either at seven per cent, compounded or uncompounded, or at the rate of five per cent per annum should be allowed on any of the debits composing the

26th item in Standard's debit column of Exhibit A to its claim, to-wit, "Deep Rock Oil and Refining Company rentals, $4,525,000.00"; that neither your trustee nor the Deep Rock is estopped or bound by any of the payments made on interest charged by the Standard because the Deep Rock never had any free and independent will of its own; that the credits allowed Deep Rock by Standard on interest charges were not earmarked "interest payments" by Deep Rock; that all credits given Deep Rock by Standard as payments of interest should be treated by the court, and so adjudged, as credits on Standard's claims, if any, and the open account balance against Deep Rock.

The trustee objects to the 21st item of debits in Exhibit A to Standard's claim, entitled "Byllesby Engineering and Management Corporation supervision fee, $1,219,034.83," for the following reasons: The Eng. and Manag. Corp. was organized by Standard to enable Standard to exaggerate and pad the annual expenses of its subsidiary utility corporations in order to justify high service rates charged the public for gas, electricity and other service, and at the same time turn back to Standard through Eng. and Manag. Corp. dividends the swollen expenses of its subsidiaries. and it used this same system on the Deep Rock; that the only engineering service ever rendered by the Eng. and Manag. Corp. to the Deep Rock was charged into and composes a part of the 20th debit item in Standard's claim shown by Exhibit A to its claim, entitled "Byllesby Engineering and Management Corporation, Sundry Charges, $230,463.16"; the trustee avers the "Sundry Charges" constitute sufficient, and in fact, liberal compensation to the Eng. and Manag. Corp. for all of its services ever rendered Deep Rock; that the Eng. and Manag. Corp. is now and has at all times been a mere agency, instrumentality and department of the Standard, and as heretofore averred, all its acts and transactions were the acts and transactions of the Standard; that the president and executive officers of the Eng. and Manag. Corp. were also president and the executive officers of the Standard and the Deep Rock; that as officers and directors of the Deep Rock it was their duty to manage and conduct the business of the Deep Rook; that they could not act as Deep Rock officers and directors and as such conduct the affairs and business of the Deep Rock and at the same time claim they were managing and supervising Deep Rock's property and business as officers of the Eng. and Manag. Corp.;

that the Eng. and Manag. Corp. supervision fee of $1,219,-034.83 is composed of charges for no services of any value to the Deep Rock; that the supervision fees charged for years other than 1921 (and it is not intended to admit the fee charged in 1921 was reasonable or just) were arbitrary and based upon what the Standard needed and what it considered the traffic would bear, and were charged for the purpose of diverting the Deep Rock's income into the Standard's treasury through the Eng. and Manag. Corp. and thereby wrongfully absorb the same; that the Eng. and Manag. Corp. would charge on its books against Deep Rock on the last day of the year supervision fees for that year and transfer the charge to the Standard, whereupon the Standard would charge the same to the Deep Rock; that the Deep Rock never paid the Eng. and Manag. Corp. any supervision fees; that large supervision fees were charged for some years in which the Deep Rock actually lost money; that the only services rendered by the Eng. and Manag. Corp. were (a) Deep Rock stock transfer services and dividend payments, which were not worth over $25,000.00 for the whole period from June, 1919, to March 1, 1933, (b) conferences and advice on financial matters and administrative policy, which was not worth anything to the Deep Rock and for which the Deep Rock was not liable and could not be made liable, and (c) the advantages Deep Rock acquired as discount on quantity purchases for material, which advantages it was the Standard's duty to award the Deep Rock without charging therefor; that the sum of $50,-000.00 would be liberal compensation for all the so-called supervision and management services of the Eng. and Manag. Corp. without interest thereon, and the trustee avers that the entire $1.219,034.83 Eng. and Manag. Corp. supervision fees are unjust charges and debits and should be adjudged as such and Standard's account purged of the supervision fees with all interest charged thereon; that in April, 1928, Deep Rock paid Standard the supervision fees charged by the Eng. and Manag. Corp. for the years 1921, 1924 and 1926, totaling $499,034.83, with interest thereon, by issuing to the Standard its common stock at the price of $50.00 per share, which price Standard fixed and accepted the stock as payment on that basis; that there remains in Standard's account shown by Exhibit A to its claim the sum of $720,000.00 Eng. and Manag. Corp. fees charged for the years 1928 to 1931, inclusive, which

the trustee alleges should be disallowed, and all interest thereon charged into Standard's account also disallowed.

The trustee specifically objects to the allowance of the item of $840,672.00 and interest thereon included in Exhibit A to Standard's claim as 1929 dividend on Deep Rock common stock owned by Standard; that said dividend was declared December 31, 1928, and charged by Standard on that date in its open account against Deep Rock; that said dividend was illegal for the reason that Standard, through its control of the Board of Directors of Deep Rock, caused said dividend to be declared contrary to the laws of the State of Delaware and to the Articles of Incorporation of Deep Rock in that at the time of the declaration of the dividend there were no net assets of the Deep Rock in excess of its capital as computed under the laws of Delaware, nor were there any net profits of the Company for the fiscal year then current and/or the preceding fiscal year, and that the capital of the corporation was at the time of declaring said dividend diminished by depreciation in the value of its property and by losses and otherwise to an amount less than the aggregate amount of the capital represented by the issued and outstanding stock of all classes having a preference upon the distribution of assets; that this dividend was not declared with any intention on the part of the directors of Deep Rock or on the part of Standard that the same would be paid on the shares of stock held by Standard, but for the purpose of Standard charging the same on open account against Deep Rock, thereby enabling Standard to report earnings on its shares of common stock of Deep Rock.

The trustee further avers that on December 31, 1926, the Deep Rock executed and delivered to the Standard, as payee therein, its promissory note for the principal sum of $4,250,000.00 maturing December 31, 1931, with interest from date at the rate of six per cent per annum, payable quarterly; that as shown by Exhibit A to Standard's claim Standard gave Deep Rock credit for only $4,080,000.00 for the execution and delivery of this note; that thereafter and on April 12, 1928, Deep Rock paid Standard the principal of said note, $4,250,000.00, and also the interest thereon in the sum of $331,500.00; that the sum of $124,300.34 was unearned discount on said note; that if there is any separate corporate entity between the Standard and the Deep Rock, Standard occupied toward

Deep Rock at that time and at all other times herein mentioned a high fiduciary relation; that Standard's own officers, acting as Deep Rock's officers, executed said $4,250,000.00 six per cent note on December 31, 1926, without any authority of the Deep Rock's Board of Directors or other officers and the trustee therefore avers that Deep Rock is entitled to an additional credit of $124,300.34 against Standard's balance of $9,342,642.37.

The Trustee avers that the following items in Exhibit A to Standard's claim should be disallowed and deducted from the balance of $9,342,642.37 claimed by Standard against Deep Rock, as shown by Exhibit A to its claim, to-wit:

(a) Refining Company rentals charged since January 31, 1928:

| | |
|---|---|
| 1928—11 months | $ 550,000.00 |
| 1929—12 months | 600,000.00 |
| 1930—12 months | 600,000.00 |
| 1931—12 months | 600,000.00 |
| 1932—12 months | 600,000.00 |
| 1933—2 months (Jan. & Feb.) | 100,000.00 |
| Total | $3,050,000.00 |

That the above rental charges in Exhibit A to Standard's claim were no part of Standard's open account balance against Deep Rock as of February 24, 1928, to-wit, $6,836,195.85, nor were any of said rental charges paid by the Deep Rock's common stock issued to Standard in settlement of said open account balance in April, 1928; that the following cash payments made by Deep Rock since the April 12, 1928, payment on open account balance against it and credited by Standard as rental payments, should be treated and adjudged as payments on Standard's open account balance against Deep Rock left after eliminating the rental charges of $3,050,000.00, to-wit:

| | |
|---|---|
| 1928 | $ 300,000.00 |
| 1932 | 100,000.00 |
| 1933 | 100,000.00 |
| Total | $ 500,000.00 |

On the above $300,000.00 paid by Deep Rock in 1928, Standard charged into its account shown by Exhibit A to its claim

the sum of $1,410.92 as interest at the rate of seven per cent on monthly balances; Standard also charged into its account at the rate of seven per cent on monthly balances the sum of $483,252.36 on the unpaid rentals in the sum of $2,550,000.00, making a total interest debit of $484,663.28, which should also be disallowed because Deep Rock never owed the rentals and Standard therefore had no right to charge interest thereon.

(b) Standard charged Deep Rock with the following Eng. and Manag. Corp. fees since February 24, 1928, and not paid by Deep Rock's issuance of its common stock to Standard on the April 12, 1928, settlement, to-wit:

| | |
|---|---|
| February 28, 1928 | $ 20,000.00 |
| December 31, 1928 | 200,000.00 |
| December 31, 1929 | 200,000.00 |
| December 31, 1930 | 200,000.00 |
| December 31, 1931 | 100,000.00 |
| Total | $ 720,000.00 |

Standard also charged into item 15 of debits in Exhibit A to its claim, entitled "Interest on open account balances, $4,819,222.07," the sum of $165,434.74 as interest at the rate of seven per cent compounded monthly on the aforesaid items composing the $720,000.00 engineering and management fees, and the trustee avers that both the $720,000.00 and the $165,-434.74 should be disallowed.

(c) That of the $166,302.81, seven per cent compound interest charged by Standard in Exhibit A to its claim for the year 1928, the sum of $77,434.14 was included in Standard's open account balance of February 24, 1928, and paid by Deep Rock's common stock in the April 12, 1928, settlement, thus leaving $88,868.65, representing the seven per cent compound interest charged in the year 1928 after the said settlement; that the total interest at the rate of seven per cent per annum compounded charged by Standard from and after February 24, 1928, on the whole account is $1,888,457.62, whereas the lawful interest computed at five per cent per annum from February 24, 1928, to February 24, 1933, is $1,193,045.31, leaving an excess of illegal interest in the sum of $695,412.31; that included in the $1,193,045.31, interest at the rate of five per cent per annum on the debit items accruing since February 24, 1928, is (1) interest on the rentals charged after January 31,

1928, and not paid by the April, 1928, common stock issuance, and (2) the unpaid Eng. and Manag. Corp. supervision fees of $720,000.00 charged since February 24, 1928; that included in the $1,193,045.31 (five per cent interest) is the sum of $379,-137.95, representing five per cent interest on (a) the $300,-000.00 credited as rentals paid in 1928, and (b) the unpaid rentals; that also included in the $1,193,045.31 (five per cent interest) as the interest on the unpaid $720,000.00 Eng. and Manag. Corp. supervision fees, is $105,233.32.

Deductions of rentals and engineering and supervision fees and interest thereon charged since February 24, 1928, and not paid in April, 1928, with Deep Rock common stock, are as follows:

| | | |
|---|---|---|
| (a) | Rentals | $ 3,050,000.00 |
| (b) | The 5 per cent interest on rentals charged since February 24, 1928, and composing a part of the $1,193,045.31, 5 per cent on the entire account since February 24, 1928.... | 379,137.95 |
| (c) | Engineering and Management Corporation supervision fees charged since February 24, 1928 | 720,000.00 |
| (d) | 5 per cent interest on Engineering and Management Corporation supervision fees charged since February 24, 1928 | 105,233.32 |
| (e) | Interest on entire account accruing after February 24, 1928, in excess of 5 per cent and charged | 695,412.31 |
| | Total deductions | $ 4,949,783.58 |
| | Standard's balance, shown by Exhibit A to its claim | $ 9,342,642.37 |
| | Above deductions | 4,949,783.58 |
| | | $ 4,392,838.79 |
| | Less Refining Company's Federal income taxes charged Deep Rock after April, 1928..... | 60,750.00 |
| | Balance | $ 4,332,088.79 |

The Trustee further avers that of the 26th item in the debit columns of Exhibit A to Standard's claim, entitled "Deep

Rock Oil and Refining Company rentals, $4,525,000.00," the sum of $825,000.00 was charged by Standard as Refining Company rentals in 1926, and was paid and fully satisfied by the Deep Rock's five-year six per cent note to Standard, executed December 31, 1926, and maturing December 31, 1931, and that thereafter and up to and including the month of January, 1928, the Standard charged Deep Rock with the Refining Company's rentals in the total sum of $650,000.00, which were paid by Deep Rock by the issuance of its common stock to Standard in April, 1928; that the aforesaid rental charges totaling $1,475,000.00 were unjust, unconscionable and illegal charges against Deep Rock; that said illegal charges in the aggregate sum of $1,475,000.00 far more than offset the credit Standard allowed Deep Rock in December, 1925, as of October 1, 1925, in the sum of $649,999.00 as the alleged purchase price for the Deep Rock's stock in the Refining Company; that of item 15 in the debit columns of Exhibit A to Standard's claim, entitled "Interest on open account balances, $4,819,222.07," there was included the sum (at seven per cent compound) of $19,901.37 interest on Refining Company rentals charged by Standard against the Deep Rock in the year 1926 and paid by Deep Rock's note to Standard executed December 31, 1926, maturing December 31, 1931, and also included (at seven per cent compound) the sum of $26,385.54 interest on the rentals charged by the Standard for the year 1927 and the month of January, 1928, making a total of $46,286.91; that the above interest charges in the sum of $46,286.91 were an unjust, unconscionable and illegal charge and debit against the Deep Rock and together with the $1,475,000.00 in unjust, unconscionable and illegal rental charges Standard made against the Deep Rock in the years 1926, 1927, and January, 1928, far more than offsets the $649,999.00 with which Standard credited the Deep Rock for the Refining Company's stock as of October 1, 1925, and with interest thereon from October 1, 1925, to March 1, 1933, should be treated and adjudged absorbed and more than offset by the illegal and unjust rentals Standard charged the Deep Rock in 1926, 1927, and January, 1928, and on the final settlement and adjudication of the Standard's claim by the court, the equities of the trustee and the Standard should be adjusted as above alleged.

From the above balance of $4,332,088.79 there should also be deducted the $840,672.00 dividend declared on December 31, 1928, on Deep Rock's common stock and charged by Stand-

ard in its open account against Deep Rock. In addition to this the compound interest computed monthly from January 31, 1929, to February 28, 1933, on the $840,672.00 should be disallowed.

The trustee further shows that the Deep Rock issued under date of March 1, 1928, $10,000,000.00 of its six per cent Convertible Gold Notes maturing March 1, 1933, which were sold to the public; that no part of the principal of said notes has been paid; that on March 1, 1928, Deep Rock entered into a trust agreement with the Union Trust Company, a corporation organized and existing under the laws of Illinois, as trustee, known as the indenture under which the notes were issued and sold and describing therein the obligations and duties of the Deep Rock and the trustee. This indenture provided that neither the Deep Rock nor any of its subsidiaries will create any mortgage on its property or any pledge of its assets unless the Deep Rock, or its subsidiary, as the case may be, shall, in the instrument creating the mortgage or pledge, also secure the payment of the principal and interest of said $10,000,000.00 Deep Rock notes equally and ratably with any indebtedness or obligation authorized to be created and secured by such mortgage or pledge. The trust indenture also provided:

"That neither the company nor any subsidiary will create any funded debt other than the notes issuable hereunder (except inter-company indebtedness and except as otherwise permitted in Section 5 of this article) unless all notes issued and issuable hereunder shall be secured by a mortgage upon the property of the company, or the subsidiary as the case may be, in *priority* to such funded debt. The term 'funded debt', as used in this agreement, shall include all bonds, debentures, notes and other evidences of interest bearing indebtedness of the company and/or its subsidiaries, which mature one year or more from the date hereof".

That Standard does not come within the definition of the term "subsidiary", as used in the Trust Agreement; that the Standard had full knowledge of said trust agreement and its terms and provisions; that the Standard caused the lease shown by Exhibit B hereto attached to be executed by the Deep Rock and the Refining Company on December 20, 1930, running for a period of five years from October 1, 1930, by which Deep Rock was obligated to pay $3,000,000.00 as rental;

that Standard knew Deep Rock was in no position financially to pay the rental charges as they matured monthly; that Standard charged the Deep Rock with said rents in monthly debits and carried them on its open account shown by Exhibit A to its claim for more than a year as interest-bearing indebtedness, and Standard advanced money to Deep Rock from time to time on its open account from and after March 1, 1928, on which it charged interest, well knowing that the loans and advancements made by it to Deep Rock could not be paid within twelve months therefrom; that said lease shown by Exhibit B hereto attached and the various loans and advancements made by Standard to Deep Rock carrying interest and running for more than a year after such advancements and loans constituted a violation of the trust agreement, and the trustee avers that the $10,000,000.00 in notes, with interest thereon, have priority over all rentals accruing under Exhibit B hereto, and the loans and advancements made by Standard, which Standard had no reason to believe or expect would or could be paid by Deep Rock within a year after the loans or advancements.

Your Trustee further avers that the Standard exercised its power of control over the Deep Rock so as to make the Deep Rock its agent and adjunct and one of its departments; that the Standard has not used its ownership of Deep Rock stock for the purpose of participating in Deep Rock's affairs in the normal and usual manner, but at all times has used its stock ownership so as to make the Deep Rock in fact a mere agency, instrumentality and department of the Standard; that Standard, since March, 1921, has used its power of control over the Deep Rock so as to deprive the Deep Rock of all real, independent existence, and your trustee avers that this court should disregard the separate corporate entity of the Deep Rock and the Standard and hold and adjudge the Deep Rock to be a department of the Standard; that on account of the matters herein alleged the Standard's claim in its entirety should not be allowed to participate in the Deep Rock's assets on a parity with other creditors.

Referring now to Standard's "Proof of Debt" or claim in this case, the Trustee says that he denies that there are no offsets or counterclaims against Standard's claim; denies that the Deep Rock was or is indebted to the Standard in the sum

of $9,342,642.37 with interest, or any other sum; denies that Deep Rock has no just credits, deductions or offsets against Standard's claim; denies that there is justly due Standard the aforesaid sum of $9,342,642.37, with or without interest; denies that the Deep Rock requested Standard to buy for its account 11,000 shares of preferred stock of the Utilities and Industrial Corporation; denies that the interest upon Standard's open account balances is $4,819,222.07, or any other sum; denies that Deep Rock is liable to Standard for the sum of $1,555,981.00 as dividends on preferred stock; denies that Deep Rock is indebted to Standard for dividends on common stock in the sum of $1,946,672.00, or any other sum; denies that Deep Rock is or ever was indebted to the Standard for the sum of $4,525,000.00 as Refining Company rentals, and denies it was obligated to pay Standard, or ever indebted to Standard, for any Refining Company rentals; admits that Standard purchased from the Deep Rock 222,448 shares of its common stock in April, 1928, and avers that said purchase was at the price of $50.00 per share, fixed by Standard itself, with which Standard credited Deep Rock on its, Standard's open account; denies that the effect of said transaction was the voluntary cancellation by Standard of its indebtedness against Deep Rock to the amount of $20,222,400.00, or any other sum; admits that the Standard surrendered 90,000 shares of Deep Rock's preferred stock in exchange for Deep Rock's common stock, but denies that this was a voluntary donation by Standard to Deep Rock.

The trustee states that a Master has already been appointed and that the evidence has been taken in support of and in opposition to Standard's claim, and the trustee prays that the court find and adjudge that the Deep Rock was a department of the Standard, and that Standard's entire account be disallowed; that if the court finds the Deep Rock was not a department of the Standard, then all those items in Standard's claim herein objected to by the trustee be disallowed and eliminated from Standard's claim and subordinated to the first and prior lien of the Deep Rock's other creditors on the Deep Rock's assets, and that the court find and adjudge that all the properties of the Refining Company are properties of the Deep Rock and liable for the Deep Rock's debts.

The trustee prays for all such other and further relief as

he may be entitled to under the pleadings and under the evidence.

GEO. S. RAMSEY, (Sgd.)
EDGAR A. de MEULES, (Sgd.)
VILLARD MARTIN, (Sgd.)
GARRET LOGAN, (Sgd.)
Counsel for Trustee.

Endorsed: Filed Mar. 8, 1935, H. P. Warfield, Clerk U. S. District Court.

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Exhibit A.

Agreement Between Deep Rock Oil and Refining Company and Shaffer Oil and Refining Company, October 1, 1925.

This Agreement, in duplicate, made and entered into on this 1st day of October, 1925, by and between Deep Rock Oil and Refining Company, a Delaware corporation, and the Shaffer Oil and Refining Company, a Delaware corporation, Witnesseth That:

Whereas the Deep Rock Oil and Refining Company is the owner of certain developed and undeveloped oil and gas leases located in the States of Oklahoma, Arkansas and Kansas;

And Whereas the Deep Rock Oil and Refining Company is not in a position to further develop or operate the said leases;

Now, Therefore, For and in Consideration of the sum of One Dollar ($1.00) by the Shaffer Oil and Refining Company to the Deep Rock Oil and Refining Company in hand paid, the receipt whereof is hereby acknowledged, and all the promises and agreements hereinafter set out, the Deep Rock Oil and Refining Company does hereby lease to the Shaffer Oil and Refining Company the property hereinafter referred to for a period of five years beginning with date hereof, subject to cancellation, at any time, by either party upon thirty days' written notice, upon the conditions and terms hereinafter set out:

1. All of the property referred to in Schedule A hereto attached and made a part hereof and hereby leased to the Shaffer Oil and Refining Company upon the express condition and consideration that the Shaffer Oil and Refining Company will advance all working capital necessary for any additions to or betterments to the leased property, the said Shaffer Oil and Refining Company to receive all gross earnings and pay

and account for all operating expenses, interest, depreciation and depletion in connection with the said property and to pay any and all carrying charges that might be incurred in connection with the said property, and in addition thereto shall pay to the Deep Rock Oil and Refining Company for the months of October, November and December, in the year 1925, the sum of Seventy-five Thousand Dollars ($75,000) per month, payable in equal monthly installments on the first day of each month, beginning with the first day of October, 1925, and thereafter, beginning with the first day of January, 1926, shall pay to the Deep Rock Oil and Refining Company the sum of Six Hundred Thousand Dollars ($600,000) per annum, payable in equal monthly installments of Fifty Thousand Dollars ($50,000), beginning with the first day of January, 1926; provided, however, that this lease may be cancelled at any time upon sixty (60) days' written notice by either party to the other given.

Should any additional leases not covered by the schedule hereto attached and hereinbefore referred to and made a part hereof be acquired in the name of the Deep Rock Oil and Refining Company, then such properties shall be included in the lease hereof, provided, however, that the cost of acquiring such property shall have been advanced by the Shaffer Oil and Refining Company.

2. The Shaffer Oil and Refining Company hereby agrees to accept, subject to the terms and conditions and payments hereinbefore referred to, the leases to the property above indicated, together with any conditions that may be made to such property in the name of the Deep Rock Oil and Refining Company under the conditions hereinbefore referred to.

In Witness Whereof the parties hereto have set their hands and seals this 1st day of October, 1925.

DEEP ROCK OIL AND REFINING COMPANY,
By JOHN L. GRAY, President.

Attest: W. R. Francisco, Secretary.

SHAFFER OIL AND REFINING COMPANY,
By F. C. GORDON,
Vice-President.

Attest: Herbert List, Assistant Secretary.

Exhibit B.

Agreement Between Deep Rock Oil and Refining Company and Deep Rock Oil Corporation, October 1, 1930.

This Agreement, in duplicate, made and entered into as of the 1st day of October, 1930, by and between Deep Rock Oil and Refining Company, a Delaware corporation, and the Deep Rock Oil Corporation, a Delaware corporation, Witnesseth, that:

Whereas the Deep Rock Oil and Refining Company is the owner of certain developed and undeveloped oil and gas leases located in the States of Oklahoma and Arkansas, and of a cracking plant located at Cushing in Payne County, Oklahoma.

And Whereas the Deep Rock Oil and Refining Company is not in a position to further develop and/or operate the said properties.

Now, Therefore, for and in Consideration of the sum of One Dollar ($1.00) by the Deep Rock Oil Corporation to the Deep Rock Oil and Refining Company in hand paid, the receipt whereof is hereby acknowledged, and all the *premises* and agreements hereinafter set out, the Deep Rock Oil and Refining Company does hereby lease to the Deep Rock Oil Corporation the property hereinafter referred to for a period of five (5) years, beginning with date hereof, subject to cancellation, at any time, by either party upon thirty days' written notice, upon the conditions and terms hereinafter set out:

1. All of the property referred to in Schedule A hereto attached and made a part hereof and hereby leased to the Deep Rock Oil Corporation upon the express condition and consideration that the deep Rock Oil Corporation will advance all working capital necessary for any additions to or betterments to the leased property, the said Deep Rock Oil Corporation to receive all gross earnings and pay and account for all operating expenses, interest, depreciation and depletion in connection with the said property and to pay any and all carrying charges that might be incurred in connection with the said property, and in addition thereto shall pay to the Deep Rock Oil and Refining Company the sum of Six Hundred Thousand Dollars ($600,000) per annum, payable in annual monthly installments of Fifty Thousand Dollars ($50,000) beginning with the first day of October, 1930; provided, how-

ever, that this lease may be cancelled at any time upon sixty (60) days' written notice by either party to the other given.

Should any additional leases not covered by the schedule hereto attached and hereinbefore referred to and made a part hereof be acquired in the name of the Deep Rock Oil and Refining Company, then such properties shall be included in the lease hereof; provided, however, that the cost of acquiring such property shall have been advanced by the Deep Rock Oil Corporation.

2. The Deep Rock Oil Corporation hereby agrees to accept, subject to the terms and conditions and payments hereinbefore referred to, the leases to the property above indicated, together with any conditions that may be made to such property in the name of the Deep Rock Oil and Refining Company under the conditions hereinbefore referred to.

In Witness Whereof the parties hereto have set their hands and seals as of this 20th day of December, 1930.

DEEP ROCK OIL AND REFINING COMPANY,
By JOHN L. GRAY, President.

Attest: W. R. Francisco, Secretary.

DEEP ROCK OIL CORPORATION,
By L. B. RIDDLE,
Vice-President.

Attest: O. O. Kerr, Assistant Secretary.

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Number 66 F.

Report of Trustee In Re Claims of Reorganization Committee With Respect to Preferred Stock Deposited With It and Proof of Claim of Reorganization Committee With Respect to Convertible Gold Notes Deposited With It.

Comes now the Trustee and respectfully reports to the court that on the 19th day of January, 1935, pursuant to the provisions of order number 56 entered herein on November 19, 1934, the reorganization committee of Deep Rock Oil Corporation filed with him its proof of interest with respect to preferred stock of Deep Rock Oil Corporation deposited with it, a copy of which is hereto attached and made a part hereof; and also

a proof of claim of the reorganization committee with respect to convertible gold notes deposited with it, a copy of which is attached hereto and made a part hereof.

The Trustee respectfully requests the order of the court allowing this report to be filed nunc pro tunc as of March 9, 1935.

Dated this 14th day of June, A. D. 1937.

H. N. GREIS, As Trustee.

Endorsed: Nunc pro tunc, as of March 9, 1935, filed June 14, 1937. H. P. Warfield, Clerk, U. S. District Court.

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Proof of Interest Filed by Reorganization Committee With Respect to Preferred Stock Deposited With It.

State of Illinois, County of Cook, ss.

Newton P. Frye, being duly sworn, deposes and says:

1. That he resides in Chicago, Illinois, County of Cook, and State of Illinois; that he is a member of a reorganization committee consisting of himself and John J. Shinners, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, constituted by and acting under a Deposit Agreement, dated as of August 9, 1934 (hereinafter called the "Committee"), and that a true copy of said Deposit Agreement under which the Committee is acting is attached hereto as Exhibit A and made a part hereof.

2. That Deep Rock Oil Corporation (formerly named Shaffer Oil and Refining Company and hereinafter referred to as the "Debtor"), after proper corporate action, duly issued 50,000 shares of $7 Cumulative Convertible Preferred Stock, without par value (hereinafter referred to as "Preferred Stock"); that certificates representing said Preferred Stock in such amount were duly executed, delivered and sold and are now outstanding in the possession of divers bona fide holders.

3. That at the close of business on January 9, 1935, there had been deposited and are now on deposit with the Committee, under and pursuant to the provisions of said Deposit Agreement, certificates representing 27,030 shares of said Preferred Stock; that attached hereto as Exhibit B is a cer-

tificate of the Committee's Depositary certifying as to the amount of Preferred Stock on deposit at the close of business on January 9, 1935, which certificate gives the name and address of each depositor and the serial numbers of his certificates, as well as the number of shares owned by each depositor; that under said Deposit Agreement the Committee is the duly authorized agent and attorney in fact of all *depsotiors* thereunder, including those whose names and addresses appear in Exhibit B annexed hereto and made a part hereof; and that under the provisions of said Deposit Agreement and pursuant to the provisions of paragraph 8 of the order entered by the court in these proceedings on November 19, 1934, the Committee is entitled to file this proof of interest on behalf of those who have deposited their Preferred stock with the Committee, including those persons whose names and addresses appear in Exhibit B attached hereto. That the depositors, whose names and addresses appear in Exhibit B annexed hereto, are the holders and legal owners of the shares of Preferred Stock set opposite their respective names; and that this proof of interest is filed by the Committee on behalf of such depositors for an aggregate amount of 27,030 shares of Preferred Stock.

4. That deponent has been duly authorized by a resolution of the Committee to execute and file this proof of interest on behalf of the Committee.

Wherefore, the Committee, through deponent, one of its members, makes the proof hereinbefore set forth.

JOHN J. SHINNERS,
NEWTON P. FRYE,
ROBERT F. HOLDEN,
JOHN H. MASON,
GRAYSON M.-P. MURPHY,
ALBERT J. ROBERTSON,
By NEWTON P. FRYE,
Member of Committee.

Dated January 16, 1935.

Subscribed and sworn to before me this 16th day of January, A. D. 1935. Winifred Flynn, Notary Public. (Notary Seal) My commission expires Dec. 10, 1938.

Proof of Claim of Reorganization Committee With Respect to Convertible Gold Notes Deposited With It.

State of Illinois, County of Cook, ss.

Newton P. Frye, being duly sworn, deposes and says:

1. That he resides in Chicago, Illinois, County of Cook and State of Illinois; that he is a member of a reorganization committee consisting of himself and John J. Shinners, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, constituted and acting under a Deposit Agreement, dated as of August 9, 1934 (hereinafter called the "Committee"), and that a true copy of said Deposit Agreement under which the Committee is acting is attached hereto as Exhibit A and made a part hereof.

2. That Deep Rock Oil Corporation (formerly named Shaffer Oil and Refining Company and hereinafter referred to as the "Debtor"), after proper corporate action, duly executed and delivered to Union Trust Company (to which the First National Bank of Chicago is successor), as Trustee, its Indenture, dated as of March 1, 1928 (hereinafter called the "Indenture), providing for the issue thereunder of its 6% Convertible Gold Notes (hereinafter called the "Notes"), in the aggregate principal amount of $10,000,000, which Notes were dated March 1, 1928, and, except as hereinafter provided, became due and payable March 1, 1933; that Notes in such amount were duly executed, authenticated, delivered, negotiated and sold and are now outstanding in the possession of divers bona fide holders for value; that prior to the maturity of the Notes and pursuant to an extension agreement, dated April 30, 1932, the maturity of $7,819,500 principal amount of the Notes was extended to March 1, 1937, and the interest rate during the extended period was increased from 6% per annum to 7% per annum; that the holders of $2,180,500 principal amount of the Notes did not extend the maturity thereof pursuant to said extension agreement, and that, therefore, $2,180,500 principal amount of Notes became due and payable automatically on March 1, 1933, and that pursuant to the provisions of the Indenture and because of said defaults therein defined the Trustee under the Indenture, under date of December 13, 1934, declared the principal of the $7,819,500 principal amount of extended Notes to be due and payable so

that at the present time the entire issue of Notes aggregating $10,000,000 in principal amount is now due and payable.

3. That at the close of business on January 9, 1935, there had been deposited and are now on deposit with the Committee, under and pursuant to the provisions of said Deposit Agreement, $7,452,000 aggregate principal amount of Notes; that of the Notes so on deposit at the close of business on said date $6,090,500 principal amount thereof are Notes which had been extended pursuant to the extension agreement above referred to and $1,361,500 principal amount thereof are Notes which were not extended pursuant to said extension agreement; that attached hereto as Exhibit B is a certificate of the Committee's Depositary certifying as to the amount of Notes on deposit at the close of business on January 9, 1935, which certificate gives the name and address of each depositor and the serial numbers of his Notes, as well as the principal amount of Notes owned by each depositor; that under said Deposit Agreement the Committee is the duly authorized agent and attorney in fact of all depositors thereunder, including those whose names and addresses appear in Exhibit B annexed hereto and made a part hereof; and that under the provisions of said Deposit Agreement and pursuant to the provisions of paragraph 8 of the order entered by the court in these proceedings on November 19, 1934, the Committee is entitled to file this proof of claim on behalf of those who have deposited their Notes with the Committee, including those persons whose names and addresses appear in Exhibit B attached hereto. That the Debtor is justly and truly indebted to the depositors whose names and addresses appear in Exhibit B annexed hereto and/or to the Committee as the agent and attorney in fact of such depositors, with respect to Notes on deposit with the Committee as aforesaid, in the amount of $7,452,000, together with accrued interest from March 1, 1933, at the rate of 6% per annum on $1,361,500 of said amount and at the rate of 7% per annum on $6,090,500 of said amount; that this claim is filed for said amount by the committee on behalf of the depositors whose names and addresses appear in Exhibit B annexed hereto; that no part of said indebtedness has been paid; that said amount is justly due, and that no property of the Debtor is held as security therefor.

4. That deponent has been duly authorized by a resolution

of the Committee to execute and file this proof of claim on behalf of the Committee.

Wherefore, the Committee, though deponent, one of its members, makes the claim hereinbefore set forth.

JOHN J. SHINNERS,
NEWTON P. FRYE,
ROBERT F. HOLDEN,
JOHN H. MASON,
GRAYSON M.-P. MURPHY,
ALBERT J. ROBERTSON,
By NEWTON P. FRYE,
Member of Committee.

Dated January 16, 1935.

Subscribed and sworn to before me this 16th day of January, A. D. 1935. Winifred Flynn, Notary Public. (Notary Seal) My commission expires Dec. 10, 1938.

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Reply to Objections of John M. Taylor and William M. Taylor Filed Herein.

Comes now Standard Gas & Electric Company and for its reply and response to the objections of John M. Taylor and William H. Taylor filed herein, in which they claim to be preferred stockholders of Deep Rock Oil Corporation, and in which they object to the allowance of the claim heretofore filed herein by Standard Gas & Electric Company, denies that the said objections are in any particular well founded, or that Standard Gas & Electric Company has ever so operated Deep Rock Oil Corporation as to render it a subsidiary or to make it a mere instrumentality of Standard Gas & Electric Company; and denies that it has ever operated Deep Rock Oil Corporation for the enhancement of its own interest and without regard to the rights and interests of the preferred stockholders of said debtor corporation; and denies that it has ever burdened said Deep Rock Oil Corporation with fraudulent and sham charges or management charges or illegal rates of interest, or any other sum or charge whatsoever; and denies that it has ever been guilty of any fraud, mismanagement, unlawful or inequitable conduct, or that it has dominated Deep Rock Oil Corporation; and denies that it has in any way affected or injured the rights of holders of preferred stock of Deep Rock Oil Corporation, and particularly the rights of objectors

aforesaid, in any matter connected with its relation with Deep Rock Oil Corporation, but alleges on the contrary that it has at all times exercised a generous attitude towards said Deep Rock Oil Corporation, and has sacrificed its own interest repeatedly for the benefit of the holders of preferred stock and the creditors of Deep Rock Oil Corporation.

And further replying, and in view of the adoption of the said objectors of the objections and amended objections filed herein by the Trustee in Bankruptcy, this claimant, Standard Gas & Electric Company, adopts as a part of this reply and response, and asks the court to consider as a part hereof, the reply and response this day filed by it to the amended objections of the Trustee in Bankruptcy herein.

And further replying, the Standard Gas & Electric Company respectfully shows to the court that there is nothing in the petition herein filed by John M. Taylor and William H. Taylor, or in their objections to the allowance of the claim of Standard Gas & Electric Company, which contains any statement of fact showing that said objectors have in any wise been injured by any matter complained of, or that they have any right to complain as to the allowance of the claim of Standard Gas & Electric Company, or that they have any right to protest against or object to the allowance of said claim.

Wherefore, having fully replied herein, it prays that the said objections be overruled, and that its claim as filed herein be allowed.

R. M. CAMPBELL,
GIBSON, MAXEY & HOLLEMAN,
Attorneys for Standard Gas & Electric Company.

Endorsed: Filed March 11, 1935. H. P. Warfield, Clerk, U. S. District Court.

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Reply of Standard Gas & Electric Company to Amended Objections of the Trustee in Bankruptcy to Claim Filed by Standard Gas & Electric Company.

Comes now Standard Gas & Electric Company, the claimant herein, and for its reply to the amended objections herein filed by the Trustee in Bankruptcy against its claim heretofore filed herein, admits the allegations as to the organization of H. M. Byllesby & Company, Standard Gas & Electric Com-

pany, Deep Rock Oil Corporation, and the other corporations named in the said objections, but denies that any of said corporations was organized for the purpose of defrauding or imposing upon any of the other corporations therein, and denies that by any means Standard Gas & Electric Company has levied tribute upon Deep Rock Oil Corporation or upon any other corporation involved herein, and denies that Deep Rock Oil Corporation is or ever was a subsidiary of Standard Gas & Electric Company.

It denies that it ever caused any charge to be made against Deep Rock Oil Corporation not justified morally and legally, and denies that any of the charges made by Byllesby Engineering & Management Corporation were fraudulent or unsound or unsupported by service rendered for the same.

It admits that in the year 1919 a contract was entered into with C. B. Shaffer governing the purchase of certain properties from him, and that a corporation was thereafter organized to take title to said properties, in which said corporation Standard Gas & Electric Company acquired a part of the stock, and in which the said C. B. Shaffer retained a large stockholding interest; and alleges that the present corporation, Deep Rock Oil Corporation, is the same corporation which was then organized under the name of Shaffer Oil & Refining Company, and that it acquired title to a refinery at Cushing, Oklahoma, and large areas of producing and non-producing oil properties, and that long subsequent to the organization of said corporation, by a supplemental agreement with the said C. B. Shaffer, he surrendered five million shares of preferred and forty thousand shares of common stock of Shaffer Oil & Refining Company, which were thereafter surrendered to Deep Rock Oil Corporation and a reserve of five million dollars thereby created.

It admits that in the year 1923 Deep Rock Oil & Refining Company was organized, and that it took title to certain properties which had been previously acquired from Bradstreet and held in the name of J. C. Kennedy, as Trustee, and also acquired title to a cracking plant erected on certain tracts of ground held in the name of R. J. Graf, Trustee, but denies that either the said J. C. Kennedy or R. J. Graf was trustee for Deep Rock Oil Corporation, but alleges the fact to be that all of the moneys which entered into the purchase of said properties were in fact furnished by Standard Gas & Electric

Company, and that they were merely disbursed for convenience through the employees of Deep Rock Oil Corporation, and that the final entries upon the books of Deep Rock Oil Corporation reciting the true ownership of said properties to be in Deep Rock Oil & Refining Company, of which Standard Gas & Electric Company owns the capital stock, were true and correct, and did in fact reflect the fact that Deep Rock Oil Corporation had merely loaned its bookkeeping force in the organization of said refining company and the handling of said purchase and constrution of said property, and that in reality the said Bradstreet property and the cracking plant were equitably the property of Standard Gas & Electric Company through its said trustees and subsequently through Deep Rock Oil & Refining Company, a corporation, of which Standard Gas & Electric Company owned and controlled the stock; and it alleges and avers that it still is the owner of all the capital stock of Deep Rock Oil & Refining Company, except the qualifying shares held by its directors and officers, and that it has furnished all of the money which entered into the purchase of said property and the construction of said plant, and that Deep Rock Oil Corporation has not now and never has had any actual interest in the said property other than as lessee under leases executed in 1925 and 1930, as appears from the record in this cause.

That the cost of the said Bradstreet property was $650,000.00, and the cost of the said cracking plant, together with extensions to the Bradstreet property, was $1,894,592.11, all of which was contributed by Standard Gas & Electric Company, and none of which has been repaid to it, though it holds as an evidence of the obligation to it the note of Deep Rock Oil & Refining Company, dated January 1st, 1931, in the sum of $1,894,592.11.

Further answering, it admits that the properties of Deep Rock Oil & Refining Company were leased to Deep Rock Oil Corporation, as alleged in the amended objection herein filed by the Trustee, but denies that the said lease was oppressive or burdensome or fraudulent, and alleges the fact to be that the consideration agreed to be paid for the rental of said properties was after consultation with the officers of Deep Rock Oil Corporation, who were experienced in the oil business, and who acted independently and according to their best judgment, and that there was no attempt or intention on the part of Stand-

ard Gas & Electric Company to impose upon or overreach Deep Rock Oil Corporation in or by the said lease and the renewal thereof, but that the consideration so agreed to be paid was based upon an honest belief that it did represent a fair consideration for the use of the said producing properties and the said cracking plant, and it alleges and avers that in consideration of the depletion and depreciation resulting from the use of said producing oil properties and the said cracking plant, the said sum so charged was reasonable and should have been paid.

Further replying, the Standard Gas & Electric Company admits that it has at all times since March, 1921, been the owner of a large majority of the capital stock of Deep Rock Oil Corporation, but denies that it has ever used said stock control to the detriment of Deep Rock Oil Corporation, or that it has ever treated or regarded Deep Rock Oil Corporation as a mère instrumentality, and alleges that on the contrary it, as a trading corporation, was not engaged in the oil business, and that it relied upon the officers of Deep Rock Oil Corporation, who were experienced and capable oil men, to advise it as to its relationship with Deep Rock Oil Corporation, and that at the request of said officers it did from time to time advance moneys and make payments for Deep Rock Oil Corporation in order to enable it to carry on its business, and that such sums so advanced are fully set out and correctly stated in the claim herein filed and in the account attached thereto, marked Exhibit A.

Further replying, Standard Gas & Electric Company denies that it has ever subordinated Deep Rock Oil Corporation to its interests, or so handled it as to make it a mere instrumentality of Standard Gas & Electric Company, or that it has managed its affairs or directed with the idea of benefitting Standard Gas & Electric Company to the detriment of Deep Rock Oil Corporation; but alleges that it has at all times exercised the utmost good faith in its relationship with Deep Rock Oil Corporation, its stockholders and its creditors, and that it has at all times sacrified its own interest and subordinated its own claims to those of Deep Rock Oil Corporation to the extent that it has heretofore lost millions of dollars in sums advanced to and for Deep Rock Oil Corporation.

Further repiying, it alleges that in the year 1928, realizing the necessity of Deep Rock Oil Corporation to raise funds

from the public, and in aid of the Ten Million Dollars of notes now outstanding executed by Deep Rock Oil Corporation and dated March 1, 1928, it took, at a fictitious value, that is to say, $50.00 per share or more, capital stock of Deep Rock Oil Corporation in payment for $11,122,400.00 of actual indebtedness then existing from said Deep Rock Oil Corporation to Standard Gas & Electric Company, for moneys advanced to it by Standard Gas & Electric Company or paid for its account, and that the said sum so paid in common stock represented substantially all of the indebtedness then due to Standard Gas & Electric Company from Deep Rock Oil Corporation, and that the claim now asserted herein, with a small exception, has arisen since the date of April 11, 1928, the date of the said settlement, and that the amount now asserted represents moneys paid for and to Deep Rock Oil Corporation, as set out in its claim herein, and is all due and unpaid.

That a large part of the said amount so claimed represents money paid as interest upon the said indebtedness of $10,000,000.00, represented by notes dated March 1, 1928, and the remainder thereof represents funds advanced to and for said Deep Rock Oil Corporation.

It denies that its charge for rental or for services rendered by Byllesby Engineering & Management Corporation should be disallowed, or that the claim of interest upon the monthly balances due to it from Deep Rock Oil Corporation should be disallowed, or that the same are usurious or in excess of a reasonable charge, and alleges the fact to be that statements showing the amount of the open account balance due to Standard Gas & Electric Company as of the 24th of each month were sent monthly to Deep Rock Oil Corporation, and interest calculated upon the monthly balances. That such methods of charging for use of the moneys advanced to and for Deep Rock Oil Corporation were recognized and agreed to by the officers of Deep Rock Oil Corporation, and that the amount so charged represented no profit to Standard Gas & Electric Company, but was only a partial repayment to it of the costs to it of such moneys so advanced, and that all of said interest should be paid.

It denies that the dividend of $840,672.00, declared on December 31, 1928, on the common stock of Deep Rock Oil Corporation, was improperly declared, or that its claim for moneys so advanced to pay the same should be disallowed.

Further replying, the Standard Gas & Electric Company denies that its claims for the moneys advanced by it to Deep Rock Oil Corporation for the purpose of paying its current obligations, including interest, taxes and other items of indebtedness, are inferior in right to the claims of the noteholders, or should be subordinated to them, and denies that its claims for any of the sums paid out by it to or for Deep Rock Oil Corporation, as shown in its account herein, should or can be properly treated as subordinated to the claims of the noteholders, or of anyone else, and alleges and avers that the said sums so paid as claimed herein should be treated as of equal standing with the claims of the noteholders herein and should be allowed on a parity with said claim.

And Standard Gas & Electric Company generally denies that it has ever subordinated the interest of Deep Rock Oil Corporation to its own, or so treated, controlled and managed the affairs of Deep Rock Oil Corporation as to cause said Deep Rock Oil Corporation to become a mere instrumentality, but alleges on the contrary that Deep Rock Oil Corporation has at all times been managed and controlled by its own officers, who were given freedom in the internal management of its affairs, and upon whose advice this claimant relied, and to whose request this claimant has at all times responded generously and to its own hurt in order to attempt to make a success of the management of the affairs of said Deep Rock Oil Corporation.

Wherefore, it respectfully prays that its claim as filed herein be allowed, and that the objections of the Trustee and his amended objections be overruled.

Respectfully submitted,

R. M. CAMPBELL,
GIBSON, MAXEY & HOLLEMAN,
Attorneys for Standard Gas & Electric Company.

Endorsed: Filed March 11, 1935. H. P. Warfield, Clerk, U. S. District Court.

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Objections to Proposed Settlement of Standard Gas and Electric Company Claim.

Now come John M. and William H. Taylor, by Sempliner, Dewey, Stanton & Honigman and Milsten and Milsten, their

attorneys, and having heretofore been authorized to intervene in the above suit, herewith state their objections to the proposed settlement of the Standard Gas and Electric Company claim, and show unto this Honorable Court, as follows:

One: That the proposed settlement as recommended by the trustee and consented to by Standard Gas and Electric Company will mean the allowance of a claim of approximately $4,750,000.00, which will be entitled to priority to the holders of preferred stock in the sharing of the assets of the debtor corporation.

Two: That somewhat less than two years have elapsed since the controversy on the Standard Gas and Electric Company claim and the counterclaim filed by the trustee and his predecessor receivers has been referred to the Honorable Preston C. West, as Special Master, for report on findings of fact and law. That, during that time, many hundreds of pages of testimony have been taken, along with hundreds of pages of interrogatories and exhibits. That, on February 13, 1925, the last of the proofs was taken before the Special Master, and the attorneys for the trustee and for the claimant rested their respective cases. That the present proposed settlement has been drawn up just prior to the time which was to be fixed for the final arguments of the facts and the law before the Special Master.

Three: The facts disclosed by the testimony, records, and exhibits are, for the most part, uncontroverted. It is the position of these objectors that under the facts already before the Special Master there can be no justification for the allowance of any claim whatsoever to the Standard Gas and Electric Company against the debtor corporation.

Four: It is further the position of these objectors that not only does the record in these proceedings disclose that the Standard Gas and Electric Company is not entitled to the allowance of its claim in any amount whatsoever against the debtor corporation, but that the Standard Gas and Electric Company is liable to the debtor corporation estate in an amount in excess of Fifteen Million Dollars ($15,000,000.00).

Five: The record of these proceedings discloses that the Standard Gas and Electric Company operated the debtor corporation as its own instrumentality, adjunct or *alter ego*.

Six: The record further discloses that the debtor corporation was completely dominated by the Standard Gas and Electric Company, its parent company; that the debtor corporation was operated as a part of the business of the Standard Gas and Electric Company; that the debtor corporation had no independent factual existence of its own, but was operated purely for the benefit of the Standard Gas and Electric Company and was entirely subservient to the interests of the Standard Gas and Electric Company.

Seven: The record further discloses that the Standard Gas and Electric Company operated the debtor corporation as a department of its own business without any regard for the interests of the debtor corporation or the outside public to which the debtor corporation was indebted or to the public which held approximately Five Million Dollars ($5,000,000.00) of par value of the Preferred Stock of the debtor corporation.

Eight: The record further discloses that the debtor corporation was originally formed as a new department of the Standard Gas and Electric Company, and that the Standard Gas and Electric Company and its associate interests undertook to pay a purchase price of in excess of Fifteen Million Dollars ($15,000.000).

Nine: That Standard Gas and Electric Company and its associate interests sought from the inception to saddle onto the debtor corporation the obligation to pay off this purchase price and failed to supply to the debtor corporation adequate means for the proper operation of its business.

Ten: That from the inception, and for a period of thirteen years, being to the date of receivership, on March 1, 1933, the debtor corporation was kept at all times financially dependent upon the Standard Gas and Electric Company for the operation of its business and was almost continuously throughout that period in imminent danger of having its existence wound up for lack of funds.

Eleven: That, throughout the period of approximately thirteen years of the debtor corporation's corporate existence, the Standard Gas and Electric Company supplied from time to time the necessary funds which the debtor corporation required for the operation of its business. That the advancement of these funds from the Standard Gas and Electric Company to the debtor corporation were necessitated by the in-

adequate capital structure supplied by the Standard Gas Company. That the advancements thus made by the Standard Gas and Electric Company to the debtor corporation throughout the period above-mentioned were in fact and in law investments of capital by the Standard Gas for the furtherance of the corporate purposes of the debtor corporation.

Twelve: That the Standard Gas Company throughout the period of the corporate existence of the debtor corporation sought, from time to time, to withdraw its necessary capital investments in the debtor corporation thereby fraudulently diverting the assets of the debtor corporation which should have been made available for the payment of the lawful claims of creditors of the debtor corporation and for the protection of the interests of the outside public holding preferred stock of the said debtor corporation, who are entitled to share in the distribution of the assets of the debtor corporation upon the liquidation before the repayment to the Standard Gas Company of any of its investment in the capital structure of said debtor corporation. That the sums so fraudulently diverted during the period of the corporate existence of said debtor corporation were in excess of Twenty Million Dollars ($20,000,000.00), as appears on page three of Exhibit A attached to the Standard Gas claim. The Standard Gas and Electric Company claim discloses that in excess of Twenty Million Dollars was taken out by the Standard Gas Company from funds belonging to said debtor corporation for application to the credit of the debtor corporation on its self-created account with the debtor corporation, which should have been left in the possession and control of the debtor corporation as an investment by the Standard Gas Company in the capital structure of said debtor corporation.

Thirteen: That, by virtue of the *Standadr* Gas and Electric Company's operating said debtor corporation as its own instrumentality or adjunct, it became liable for all of the debts of the debtor corporation and should be made to account in this proceeding for a sum sufficient to pay all debts of the debtor corporation other than its own claimed debt.

Fourteen: That the said Standard Gas having operated said debtor corporation as its own instrumentality, adjunct or *alter ego* is liable as the undisclosed principal for all debts incurred and owing by said debtor corporation.

Fifteen: That, in no event, can the Standard Electric Company's claim against the debtor corporation be allowed by virtue of its operation of said debtor corporation as a mere instrumentality or adjunct and that the claim of said Standard Gas and Electric Company is in effect a claim against itself. That, in any event, any amount claimed by said Standard Gas and Electric Company in its claim as a balance owing from said debtor corporation should be disallowed as a capital investment of said Standard Gas Company in the capital structure of said debtor corporation.

Sixteen: That, by virtue of the operation of said debtor corporation as an instrumentality, adjunct or *alter ego* of said Standard Gas and Electric Company, and by virtue of the fraudulent diversion of the funds and assets of said debtor corporation by said Standard Gas and Electric Company, the debts and obligations of the debtor corporation should be deemed the debts and obligations of said Standard Gas Company and said Standard Gas Company should not be permitted to hide behind the separate corporate existence of said debtor corporation as a means of escaping its lawful duties and obligations.

Seventeen: That, under the facts disclosed by the record, the Standard Gas and Electric Company should be adjudged liable under amended pleadings for damages for its fraudulent, wasteful and incompetent management of the affairs of said debtor corporation, and should be adjudged liable to the estate of said debtor corporation in an amount in excess of Twenty Million Dollars ($20,000,000.00).

Eighteen: That the Standard Gas and Electric Company and Byllesby Engineering Company were, by their course of conduct in the handling and operation of debtor corporation actually doing business in the State of Oklahoma, although they were not licensed to carry on any business in that state. That all contracts made by them are thus illegal and the amounts sought to be recovered by Standard must thus be deemed indebtedness accruing from illegal contracts upon which Standard cannot recover.

Nineteen: That the various interest charges and discounts which Standard Gas Company charged to Deep Rock were subterfuges for the charging of usurious interest and as such Standard Gas Company is liable under the laws of Oklahoma for an amount equal to twice the amount of usurious interest

which it charged or collected. That if the usury is determined to have been committed under the laws of Illinois, in any event, Standard cannot collect the usurious interest or any interest whatsoever by virtue of the laws of Illinois effecting usurious contracts.

Twenty: That the following specific items of charges against said debtor corporation totaling $18,883,031.39 should be disallowed for reasons as hereinafter set forth:

(a) *Deep Rock Oil and Refining Company Rentals* ..... $ 4,525,000.00

From the record, these proceedings fully disclose that the entire lease arrangements between the debtor corporation and Deep Rock Oil & Refining Corporation were purely a set-up by the Standard Gas and Electric Company for a fraudulent diversion of the assets of the debtor corporation. That the Deep Rock Oil & Refining Company was purely a dummy corporation formed by the Standard as a means of diverting assets from the debtor corporation; that the property lease was never authorized by either the debtor corporation or the Deep Rock Oil & Refining Company, hereinafter referred to as "Refining Company." That the properties purported to be covered by lease were, in fact, and in law, the properties of the debtor corporation. That the rental obligations and other covenants saddled upon the debtor corporation by the action of Standard bore no reasonable relation to a proper and reasonable rental charge for the premises in question. That all of the circumstances in connection with the transaction indicate a pure imaginary deal concocted in the minds of the officials of Standard and having its only evidence in the accounts and papers which they, alone, created and produced. That, by the means of the property lease, and the transactions incident thereto, the Standard Company sought to deprive the debtor corporation of an essential part of its business without which it was impossible for the debtor corporation to carry on its business. That the items of $4,525,000.00 charged for rental are nothing more than bookkeeping fabrications by the Standard Company as a means of fraudulently converting to its own use and benefit the assets of the debtor corporation.

(b) *Byllesby Engineering & Management Corporation*

1. Supervision Fee ..... $1,219,034.83
2. Sundry Charges ..... 230,463.16

The Record discloses that these charges are entirely unwarranted and unjustified. That no services were performed by the Byllesby Engineering & Management Corporation. That the Standard Gas owns all of the outstanding capital stock of the Byllesby Engineering & Management Corporation, and that the two corporations are so intertwined in the nature of their personnel and in the operation of their business as to be deemed a single entity. That the amount of $1,219,034.83 had no basis in fact and was purely a fraudulent concoction by the Standard Gas as a means of diverting the funds and assets of the debtor corporation. That the items included in the Sundry Charges of $230,463.16 were for the most part purely arbitrary charges and allocations by Standard to the Debtor corporation for expenses incurred in the business of the Standard Gas and Electric Company in connection with which the debtor corporation was neither consulted or given an independent opportunity to agree. That all of the amounts listed as assumption of open accounts with Byllesby Engineering & Management Corporation are purely bookkeeping numbers created by the Standard Gas and Electric Company by entries made upon the various pages of its books that bore the names of one of its intertwined corporations, including the Byllesby Engineering and Management Corporation, and including also the debtor corporation.

| | | |
|---|---|---|
| (c) | *H. M. Byllesby & Company* | |
| | Compensation paid | $752,647.10 |
| | Compensation paid | 143,425.00 |
| | Compensation paid | 168,775.00 |
| | | 107,850.49 |

The item of $752,647.10 includes numerous items arbitrarily fixed by Standard and its associates without any justification and without any voice by the debtor corporation. The items included in said sum are purely bookkeeping transactions, created and set up between Standard and its associate, H. M. *Billesby* & Company, which latter corporation owns the controlling interest in said Standard Gas and Electric Company and whose officers and personnel are, for the most part, interchanged with the officers and personnel of the Standard Gas & Electric Company.

The item of $143.425.00 paid to H. M. Byllesby & Company was merely a diversion of funds by Standard and was an unreasonable charge for services performed. That the services for extension of the $10,000,000 note issue were primarily in

the interests and for the benefit of the Standard Gas for the protection of its investment in the debtor corporation and that there was no justification for any charge being made to the debtor corporation.

The item of $168,775,00 does not appear in the Standard Gas account Exhibit A, although it was paid by the debtor corporation directly to H. M. Byllesby & Company for the same services as described in the last mentioned item and is objectionable for the same reasons.

The items of $107,850.49 was paid by debtor corporation to H. M. Byllesby & Company in 1922. It was a charge for organization expenses which was apparently paid directly to H. M. Byllesby & Company and which, therefore, does not appear on the Standard Company's books as a part of its account against the debtor corporation.

The Byllesby interests in creating the debtor corporation were merely carrying on the creation of a new project from which they expected a profit, by virtue of the business that was to be done by the debtor corporation. There is no basis for justification of a charge against the debtor corporation for organization expenses which were a part of the function and project of the Byllesby interests, including the Standard Gas Company.

(d) Dividends on Preferred Stock.....$1,555,981.00
Dividends on Common Stock..... 1,946,672.00

That the declaration of dividends on preferred and common stock owned by Standard Gas and Electric Company was entirely unwarranted. That there were no profits or surplus justifying the declaration of the dividends in question. That the books and records of the debtor corporation fail to disclose proper reservations for depreciation and depletion, and thereby were made to create an apparent profit and surplus which, in fact, never existed. That the Standard Gas, in the course of its complete and absolute domination of the debtor corporation, determined for itself when it desired to divert funds from the debtor corporation without any regard to the true financial condition or financial needs of the debtor corporation. That the declaration and payment of the dividends in question was in fact nothing more than an additional fraudulent diversion of funds by the debtor corporation.

(e) Sale of Shaffer Oil & Refining Company 8's of 1923
To Company ..... $451,237.33.

The above charge was made by Standard Gas and Electric Company as a payment to itself for services it performed in the sale of notes issued by the debtor corporation. This charge is purely an arbitrary charge fixed by the Standard Company by virtue of its domination of the debtor corporation. Such services as were performed by Standard in the sale of these notes were primarily for their own benefit in protecting their investment in the debtor corporation and in providing the debtor corporation with the funds which it needed for its operations and which should have been provided by the Standard Company in the course of any honest administration of the affairs of the debtor corporation.

(f) Acquisition of Common Stock of Home Oil Company ..... $175,000.00.

This sum was charged by Standard to the debtor corporation for its services in acquiring for the debtor corporation the additional properties consisting of the common stock of the Home Oil Company. The charge is purely an arbitrary one fixed by the Standard Company by virtue of its domination of the debtor corporation. Such services as were performed were primarily for the benefit of Standard in the enhancement of the value of its capital investment in the debtor corporation. No basis appears in the record from which it may be determined whether the work of acquisition of the Home Oil Company was performed by employes by virtue of their interest in Standard Gas and Electric Company or by virtue of their employment with the debtor corporation. The record further discloses nothing to indicate that the debtor corporation acquired the common stock of the Home Oil Company for any sum less than was reasonable by virtue of any services performed by Standard.

(g) Payment of Federal Income tax of Deep Rock Oil & Refining Corp..... $ 29,565.91
Sundry Expenditures..... 1,087,569.57

The item of $29,565.91 is for income taxes paid charged to debtor corporation by virtue of payment of income tax for Deep Rock Oil & Refining Corporation. In addition to this item, $81,000 was paid for 1927 Federal Income taxes and

another $81,000 for 1928 Federal Income taxes of Deep Rock Oil & Refining Company, and charged by Standard to debtor corporation and included in the total of $1,087,569.57 of "Sundry Expenditures." These income tax charges were incurred purely by the creation of a fictitious profit for the Refining Company as a dummy corporation for Standard which the latter used as an instrumentality for diverting funds from debtor corporation. The Standard Company indicates by these charges that it sought not only to charge the debtor corporation with the rental sums as a means of fraudulently diverting the debtor corporation's assets but also with these tax items, which were in effect expenses incident to the diversion.

The remaining charges of these sundry expenditures are purely items created by Standard in its own discretion and allocated to the debtor corporation at its own will and pleasure.

(h) Discount on Deep Rock Notes:

| | | |
|---|---|---|
| 1. | $10,000,000 note issue, discount | $600,000.00 |
| 2. | 7,500,000 note issue, discount | 275,000.00 |
| 3. | 4,250,000 note issue, discount | 170,000.00 |
| 4. | 1,057,300 8% note issue, discount | 90,000.00 |
| 5. | 100,500 6% Bond issue, discount | 20,000.00 |

All of the foregoing discounts were arbitrarily fixed and determined by Standard by crediting the debtor corporation with less than the face value of the notes which it received. The relationship between Standard and the debtor corporation was such as to preclude from any fair or equitable standard the charging of any discount by Standard upon advancements, if they were such, to the debtor corporation.

| | | |
|---|---|---|
| (i) | Interest on Open Account Balances | $4,819,223.07 |
| | Interest on Notes Receivable | 184,087.93 |
| | Interest on Five Year Six Per Cent Notes Owned by Standard Gas and Electric Company | 331,500.00 |

The interest on the open account consists of charges for interest on an indebtedness which was never owing in the first instance. If the advancements by Standard to the debtor corporation are deemed investments of capital, then there is no debt on which Standard can charge interest to the debtor corporation. If the specific items hereinbefore referred to are disallowed, there likewise would be no debt upon which inter-

est could be charged by the debtor corporation. In any event, the interest figures are purely arbitrary ones fixed by Standard. The interest charge is a seven per cent charge compounded daily which, under all of the circumstances must be deemed an unfair and usurious charge as between the Standard Company and its completely dominated subsidiary, the debtor corporation. In part, the interest items included charges of eight per cent interest on outstanding notes which, when due, are added to the open account and interest is thereafter compounded daily at the rate of seven per cent per annum.

The discussion with reference to the interest charge on the open account is also applicable to the interest items on outstanding notes of the debtor corporation which were from time to time held by Standard. The notes were in all instances Standard's own creation and the interest rates were in all instances fixed by Standard and the determination whether to pay or not to pay was likewise made by Standard.

Twenty-one: That the record in the proceedings before the Honorable Special Master fails to disclose any independent audit made of the books of the debtor corporation with a view of determining how much funds were diverted from the debtor corporation which do not appear on the account submitted by the Standard Gas and Electric Company. That in the face of the extensive series of malevolent practices on the part of the Standard against the debtor corporation, it is reasonable to suppose that other items of fraudulent diversion of funds may be uncovered by a thorough audit of the books of the debtor corporation. That a determination of the fairness of the proposed settlement can in no event be made in the absence of such an examination and audit.

Twenty-two: That, in the event that, in the opinion of The Honorable Special Master, it does not specifically appear from the present record that the corporate structure of the debtor corporation should be disregarded from the standpoint of determination of the liability and claim of Standard Gas and Electric Company, that the proceedings be reopened for further proofs which, in the opinion of your objectors, should be obtainable in support of the contentions herein made.

John L. Gray, who was the Chief Operating Officer of the debtor corporation during the last nine years of its existence,

and who was one of the two plaintiffs who instituted the original receivership action against the debtor corporation on February 28, 1933, should be able to disclose material and vital elements in connection with the relationships between the debtor corporation and Standard. From the record it does not appear that said John L. Gray was sought to be produced as a witness by either Standard or the Trustee. That, in the event of the reopening of the proceedings for further testimony, it may be necessary to produce and examine additional witnesses in support of this claim of liability on the part of these objectors against Standard.

Twenty-three: Wherefore, the objectors ask that The Honorable Special Master shall find:

(a) That the proposed settlement of the Standard Gas and Electric Company claim should be rejected by this Honorable Court.

(b) That the proposed settlement is unwarranted and unjustifiable.

(c) That the amended pleadings be permitted in behalf of these objectors and/or the trustee to charge the Standard Gas and Electric Company with liability over and above the amount of its claim in an amount in excess of $20,000,000 for the various reasons as hereinbefore set forth.

(d) That the amended pleadings be permitted in behalf of these objectors and/or the trustee to subject to the jurisdiction of this Honorable Court as a part of these proceedings all of the property and assets of Deep Rock Oil & Refining Company as in fact and in law assets of the debtor corporation; and that R. J. Graf be ordered to appear before this court under summary proceedings for the delivery to the trustee of the debtor corporation of the deed which he holds to a part of the refinery known as the "Cracking Plant" which, in fact, and in law, is an asset of the debtor corporation, and to which said R. J. Graf has no colorable claim.

Twenty-four: These objections to the proposed settlement of the Standard Gas and Electric Company claim are filed in behalf of these objectors and of all other holders of preferred stock of said debtor corporation similarly situated, and for such further benefit as may accrue to the true and lawful creditors of said debtor corporation. These objections are based

upon the files and records of these proceedings and are accompanied by detailed analysis of the facts and law, reference to which is hereby prayed as fully as if included in full herein.

Dated this 21st day of March, 1935.

SEMPLINER, DEWEY, STANTON & HONIGMAN,
By JASON L. HONIGMAN,
Detroit, Michigan.

MILSTEN & MILSTEN, Tulsa, Okla.
Attorneys for John M. and William H. Taylor, Interveners.

Endorsed: Filed March 25, 1935. H. P. Warfield, Clerk, U. S. District Court.

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Petition No. 71.

Trustee's Petition for Instructions.

Comes now the Trustee in Bankruptcy, H. N. Greis, and respectfully calls the court's attention to Paragraph (c) of Section 77b of the National Bankruptcy Act, approved June 7, 1934, providing that "Upon approving the petition or answer or at any time thereafter, the judge * * * may direct the debtor, or the trustee or trustees if appointed, to prepare (a) a list of all known bondholders and creditors of, or claimants against, the debtor or its property, and the amount and character of their debts, claims and securities, and the last known Post Office address or place of business of each creditor or claimant, and (b) a list of the stockholders of each class of the debtor, with the last known Post Office address or place of business of each, which list shall be open to the inspection of any creditor or stockholder of the debtor, during reasonable business hours, upon application to the debtor, or to the trustee or trustees, if appointed, and the contents of such list shall not constitute admissions by the debtor or the trustees in a proceeding under this section or otherwise"; that under date of April 8, 1935, the Trustee received a letter from Messrs. Sempliner, Dewey, Stanton & Honigman and Milsten & Milsten, attorneys for John M. Taylor and William H. Taylor, owners of preferred stock of the Deep Rock Oil Corporation and interveners as such in the above-styled cause, wherein said attorneys respectfully request permission to examine

during reasonable business hours lists of (1) all of the owners and holders of the outstanding convertible gold notes of the Deep Rock Oil Corporation, (2) the owners and holders of all outstanding $7.00 cumulative convertible preferred stock of the Deep Rock Oil Corporation, and (3) the owners and holders of all of the outstanding common stock of the Deep Rock Oil Corporation, a copy of which letter is hereto attached and made a part hereof as Exhibit A; that the trustee has on file in his office a list of (a) the names and last known addresses of all the owners of the common stock of the Deep Rock Oil Corporation, (b) the names and last known addresses of all the owners of the preferred stock of the Deep Rock Oil Corporation, and (c) a list of the names of those creditors, including some of the owners of the Deep Rock Oil Corporation's $10,000,000.00 March 1, 1928 promissory notes, who have filed claims in the bankruptcy proceedings as creditors; that the Deep Rock's $10,000,000.00 notes issued under date of March 1, 1928, due in five years after date, are payable to bearer, or, if registered, to the registered owner thereof; that the trustee does not have in his possession and never has had in his possession a list of the names, with or without the last known address, of all the holders and owners of the aforesaid March 1, 1928, notes of the Deep Rock Oil Corporation; that according to the information of the trustee said notes are scattered over the country and owned and held by various and sundry parties, the names and addresses of whom are unknown to your trustee; that heretofore this court has made an order allowing all of said $10,000,000.00 notes, with interest thereon, as just and provable claims against the Deep Rock Oil Corporation.

The Trustee therefore prays that this court, upon due consideration of this petition, enter an order advising and instructing the trustee whether or not he should exhibit to counsel for John M. Taylor and William H. Taylor, and other stockholders and creditors of the Deep Rock Oil Corporation, the list of the names and last known addresses of the owners of the Deep Rock Oil Corporation's preferred and common stock, and the list of those creditors and noteholders who have filed their claims in this proceeding, and also for such other directions as the court may deem proper under the circumstances.

Dated this 16th day of April, 1935.

H. N. GREIS, (Sgd) Trustee.
GEO. S. RAMSEY, (Sgd)
EDGAR A. de MEULES (Sgd)
VILLARD MARTIN, (Sgd)
Counsel for Trustee.

Endorsed: Filed April 16, 1935. H. P. Warfield, Clerk, U. S. District Court.

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Exhibit A.

Law Offices Milsten & Milsten, Travis I. Milsten, David R. Milsten, 424-428 Beacon Life Building, Tulsa, Oklahoma. Telephones 9207, 9208.

April 8, 1935.

Mr. H. N. Greis, Trustee in Bankruptcy, Deep Rock Oil Corporation, Atlas Life Building, Tulsa, Oklahoma.

Dear Sir: On behalf of John M. Taylor and William H. Taylor, preferred stockholders of the Deep Rock Oil Corporation, who have heretofore intervened in the litigation pending in the United States District Court for the Northern District of Oklahoma, in case No. 2318 consolidated, in Bankruptcy, we hereby respectfully request you to permit us to examine, during reasonable business hours, lists of:

1. All of the owners and holders of the outstanding convertible gold notes of the Deep Rock Oil Corporation;

2. The owners and holders of all outstanding $7.00 cumulative convertible preferred stock of the Deep Rock Oil Corporation;

3. The owners and holders of all of the outstanding common stock of the Deep Rock Oil Corporation.

Please advise when said lists will be available for our inspection.

Dated this 8th day of April, 1935.

SEMPLINER, DEWEY, STANTON & HONIGMAN, and
MILSTEN & MILSTEN,
By (Signed) TRAVIS I. MILSTEN,
Attorneys for John M. Taylor and William H. Taylor.

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Order No. 71.

This matter came on for hearing on this the 16th day of April, 1935, same being a regular day of a term of this court at Tulsa, Oklahoma, upon the Trustee's petition for instructions as to whether or not he should permit counsel for John M. and William H. Taylor, owners of preferred stock of the Debtor, and other stockholders and creditors of the Debtor to inspect the list in the Trustee's possession showing the names and addresses of (a) the preferred and common stockholders, and (b) the creditors of the Debtor; and it appearing that an inspection of a list showing the names and addresses of (a) the Debtor's preferred and common stockholders, (b) those holders and owners only of the Debtor's $10,000,000.00 March 1, 1928, five-year notes, (not all of them) individually filing their claim with the Receivers of the Debtor in Equity Cause No. 844 in this court, and the Trustee, and (c) those claimants and creditors other than the aforesaid noteholders, should be allowed.

It Is Ordered and Adjudged

(1st) That within ten (10) days from this date the Trustee file in the office of the clerk of this court lists showing (a) the names and addresses of the Debtor's stockholders, (b) the available names and addresses of the holders of the Debtor's March 1, 1928 notes, and (c) the names and addresses of the other claimants and creditors, which lists shall be open for inspection during office hours by (a) any Deep Rock bona fide creditor and note holder, and (b) any of the Debtor's stockholders of record upon complying with the requirements of this order.

(2nd) That no person or group of persons shall inspect or copy said lists except upon the order of this court made after due notice of time and place of presenting the application for such permission duly served on counsel of record for the Trustee, Geo. S. Ramsey, Edgar A. de Meules, or Villard Martin, and also Wm. F. Semple, counsel for the Debtor, who shall notify counsel for the Reorganization Committee.

(3rd) That each application for permission to inspect said lists shall be verified and state therein (a) the class of stock, whether preferred or common or both, owned by applicant, (b) the number of shares owned, the date of acquisition of ownership, (c) the purpose of the inspection, and (d) whether

or not the applicant intends to send to any or all the stockholders or creditors, or both, any letter or other communication, and if so, state briefly the contents of the proposed communication.

(4th) That no letter or other written communication by one permitted to examine said lists shall be sent or delivered to any stockholder or creditor before serving a copy of the proposed letter or communication on counsel for the Debtor, counsel for the Reorganization Committee, and counsel for the Trustee, and thereafter on reasonable notice to the aforesaid counsel the application for leave of this court to send or deliver such communication to the Debtor's stockholders or creditors will be heard.

(5th) The clerk of this court is ordered to forward at once by mail a copy of this order to Milsten & Milsten, Attorneys, 424 Beacon Life Building, Tulsa, Oklahoma, Wm. F. Semple, Attorney, Atlas Life Building, Tulsa, Oklahoma, and Cutting, Moore & Sidley, Attorneys, 11 South La Salle Street, Chicago, Illinois.

Made and ordered entered this April 16th, 1935.

(Signed) F. E. KENNAMER, Judge.

Endorsed: Filed April 17, 1935. H. P. Warfield, Clerk, U. S. District Court.

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Report of Special Master, Preston C. West.

To Honorable F. E. Kennamer, Judge of the District Court of the United States, for the Northern District of Oklahoma:

Comes now Preston C. West, and for his report as Special Master herein, states and shows:

Owing to the fact that a number of distinct corporations are directly or collaterally involved in these proceedings, and to the further fact that in the year 1930 the original name of debtor corporation, Shaffer Oil & Refining Company, was by charter amendment changed to Deep Rock Oil Corporation, and that several of the corporations involved had some similarity of names, there has been some effort to simplify matters by the use of a nomenclature thought to aid in avoiding confusion, as it also tends somewhat to abbreviation. I have, however, decided throughout my report to refer to Shaffer

Oil Refining Company—Deep Rock Oil Corporation (which is, and throughout has been, one and the same concern) simply as "Debtor Corporation," and call each of the others by their full names; and I hope this will not involve either the court or the Master in serious difficulty.

References to and Proceedings Before Master.

On the 5th day of January, 1934, in equity cause No. 844, wherein John L. Gray and L. B. Riddle were plaintiffs, and Deep Rock Oil Corporation, a corporation, defendant, an order was made and entered by this court by which the undersigned was appointed Special Master to examine the petition of intervention filed by Standard Gas and Electric Company, and the answer and counterclaim of Deep Rock Oil Corporation to said intervention, and the answer and reply of Standard Gas and Electric Company to the answer and counterclaim of Receivers; and to consider the aforesaid pleadings, hear the evidence, both oral and by deposition, if any, and report the same to this court with findings of fact and conclusions of law.

Pursuant to the foregoing order, the Master filed his oath, and oral testimony was taken in Chicago, Illinois, May 28th, 29th and 31st, and June 1, 1934; typewritten transcript whereof, pages 1 to 470, is returned herewith.

Thereafter, on June 7, 1934, Debtor Corporation filed its petition under Section 77b of the National Bankruptcy Act (entitled "In the Matter of Deep Rock Oil Corporation, in Bankruptcy"), and on June 15, 1934, pursuant to stipulation, Preston C. West was appointed Special Master therein to hear claim of Standard Gas and Electric Company, and duly filed his oath as such Special Master, and on June 18, 1934, the testimony previously taken in equity suit 844 was put in evidence in the bankruptcy proceeding, and the testimony of sundry witnesses also orally taken before the Master at Tulsa, Oklahoma; typewritten transcript whereof, pages 471 to 528, is returned herewith.

Thereafter, on June 19, 1934, Debtor Corporation filed a new petition under Section 77b of the National Bankruptcy Act, and by order of this court said proceeding was consolidated with Bankruptcy No. 2304, and all subsequent proceedings have been in the cause entitled "In the Matter of Deep Rock Oil Corporation, Debtor, in Bankruptcy, No. 2318 Consolidated."

June 22, 1934, Standard Gas and Electric Company filed its proof of debt in the above-styled bankruptcy proceeding, to which, on the same day, objections of the Trustee were filed, and on the same day the controversy on said claim was, by the court, referred to Preston C. West as Special Master, with direction to take the testimony offered by claimant and by the Trustee, and report all the evidence, with his findings of fact and conclusions of law, to this court.

Also, on June 22, 1934, a stipulation of counsel with respect to said controversy was filed, agreeing that all the evidence theretofore taken before the Special Master in equity 844 and in bankruptcy No. 2304 should be considered as reintroduced before the Special Master in this cause, with like effect as if heard by him after his appointment as such Special Master herein.

On July 25, 1934, the oath of Special Master in this cause, to-wit, Bankruptcy No. 2318 Consolidated, was duly filed.

Thereafter further oral testimony was taken before the Special Master at Chicago, Illinois, November 2d, November 3d, and November 5, 1934, typewritten transcript of which, pages 529 to 673, inclusive, is returned herewith; also, on February 13, and 14, 1935, at Tulsa, Oklahoma, further oral testimony was taken before the Special Master; typewritten transcript whereof, pages 674 to 798, inclusive, is returned herewith.

There were also filed by claimants Exhibits 1 to 7, inclusive, and 9 to 65, inclusive, all of which are returned herewith.

The Receivers, and the Trustee, have filed Exhibits B, 1-B, 1-C, H, Eye, Jay and K; printed reports of Standard Gas and Electric Company for the years 1923 to 1932, inclusive, identified as Exhibits 1-D, D, E, F, G, I, J, K, L and M, respectively; trust indenture (dated June 1, 1919) from Debtor Corporation to Continental & Commercial Trust and Savings Bank, Trustee, and William P. Kopf, Co-Trustee, identified as Receiver's Exhibit N; copy of bill, dated August 22, 1922, to Debtor Corporation by H. M. Byllesby & Company, identified as Receiver's Exhibit M; also Trustee's Exhibits S, T, U, V, W, X, XX, Y, Z, Z-1, Z-2, Z-3 and Z-4; also interrogatories to George W. Knourek, identified as Trustee's XP1, with answers of George W. Knourek to interrogatories submitted by counsel for the Trustee, identified as Trustee's XP2, and further interrogatories for George W. Knourek identified as

Trustee's P-3, with answers to additional interrogatories, George W. Knourek, identified as Trustee's P-4; third list of interrogatories for George W. Knourek, identified as Trustee Ex P-6, and answers to third list of interrogatories, George W. Knourek, identified as Trustee P-5; also interrogatories to be answered by W. R. Francisco, identified as Trustee X-Q, and answers to interrogatories by W. R. Francisco, question 1 to 49, inclusive, identified as Trustee Q-1; also interrogatories to be answered by O. O. Kerr, identified as Trustee Ex-R, and answers of O. O. Kerr to interrogatories, questions 1 to 56, both inclusive, identified as Trustee Ex-R-1; also, additional interrogatories propounded O. O. Kerr, identified as Trustee Ex-R-2, and answers of O. O. Kerr to interrogatories, questions Nos. 57 to 71, both inclusive, identified as Trustee Ex-R-3; all of which are returned herewith.

Likewise, counsel for Trustee and Claimant filed "Stipulation in regard to claim of Standard Gas and Electric Company," with thereto attached 28 exhibits, numbered from 1 to 28, both inclusive; which stipulation, with attached exhibits, is herewith returned.

After the foregoing testimony had been taken, and on February 21, 1935, John M. Taylor and William H. Taylor, as preferred stockholders of Debtor Corporation filed in this court their objections to claim of Standard Gas and Electric Company, and their petition to intervene in this proceeding; and were by the court permitted to intervene.

On March 8, 1935, the Trustee filed amended objections to the claim of Standard Gas and Electric Company, and also a petition for authority to compound and settle said claim, and said matter of authority to compound and settle said claim was by the court referred to Preston C. West, as Special Master, and the Special Master was ordered and directed to notify, by mail, all creditors who had filed claims against Debtor corporation, of hearing thereon, at least ten days prior to the date set for hearing; and also cause notice of the hearing to be published in the Chicago Tribune and the Tulsa Daily World at least ten days before the hearing; and to hear said petition of the Trustee, and consider said settlement, and any objections that might be made thereto, and report to the court, in writing, his findings and recommendations thereon.

Thereupon the Master fixed ten o'clock a. m., Monday,

March 25, 1935, as the time, and the United States District Court room, on the second floor of the United States Court House (Post Office Building), situated at the corner of Third Street and Boulder Avenue, in the City of Tulsa, County of Tulsa, State of Oklahoma, as the place, for said hearing; and notice was given by mail, and by publication, pursuant to the order of this court; statement of the Special Master as to the mailing of notices is hereto attached, identified as Master's Exhibit One, and proof of publication in the Chicago Tribune, identified as Master's Exhibit Two, and proof of publication in the Tulsa Daily World, identified as Master's Exhibit Three, are attached to this report and made a part hereof as fully as if set forth in so many words in the face of the report.

On March 11, 1935, Standard Gas and Electric Company filed a reply to the objections of John M. Taylor and William H. Taylor, and reply to amended objections of Trustee; and on March 25, 1935, John M. Taylor and William H. Taylor filed objections to propose settlement of Standard Gas and Electric Company's claim, and brief in support of said objections.

On Monday, March 25, 1935, in accordance with the notices previously given by mail and by publication, the Special Master heard the matter of proposed compounding and settlement of Standard Gas and Electric Company's claim, at which hearing the Standard Gas and Electric Company was represented by R. M. Campbell and N. A. Gibson; John M. Taylor and William H. Taylor were represented by J. L. Honigman, of the firm of Sempliner, Dewey, Stanton and Honigman, of Detroit, Michigan, and Messrs. Milsten & Milsten, of Tulsa, Oklahoma; and the Trustee was represented by George S. Ramsey and Villard Martin, of Tulsa, Oklahoma; and Mr. Oates was present and made a statement which appears at pages 731 to 735 of the transcript of the proceedings on that day.

At said hearing, the objectors, John M. Taylor and William H. Taylor, called as witnesses Mr. George S. Ramsey and Mr. J. H. Shinners, and their testimony was taken orally before the Master and has been transcribed in typewriting and the typewritten transcript thereof, consisting of pages 658 to 729 inclusive (by Mr. G. E. Brown, shorthand reporter), is returned herewith.

At said hearing all the matters involved were orally argued at length before the Special Master, and briefs on behalf of Standard Gas & Electric Company, on behalf of the Trustee, and on behalf of the objectors, John M. and William H. Taylor, have been submitted; and since said hearing and argument the Special Master has again read the record and spent a great deal of time in consideration thereof.

## Statement of the Case.

To draw a picture of the situation involved in this proceeding without extending the detail to such length as to make the statement too voluminous and cumbersome to be of any value is an almost impossible task. A period of nearly fourteen years is covered by the actual transactions here drawn in question, and the birth of the oldest of the corporations involved antedates by almost thirty years the genesis of the present proceedings.

H. M. Byllesby & Company (Deleware corporation), Standard Gas and Electric Company (Deleware corporation), Byllesby Engineering and Management Corporation (Deleware corporation), Deep Rock Oil & Refining Co. (Deleware corporation), and Debtor Corporation (Shaffer Oil & Refining Company, name changed later to Deep Rock Oil Corporation, organized under the laws of the State of Deleware) are the actors which played their several parts in the involved and complicated set of facts which make up the story.

By stipulation of counsel (Tr. 389) it appears that:

H. M. Byllesby & Company was organized Jan. 14, 1904;

Standard Gas and Electric Company was organized April 28, 1910;

Byllesby Engineering and Management Corporation was organized June 21, 1919;

Debtor Corporation, Shaffer Oil & Refining Company (name later changed by amendment to Deep Rock Oil Corporation) was organized May 31, 1919;

Deep Rock Oil & Refining Co. was organized Feb. 26, 1923.

Mr. J. J. O'Brien, President of H. M. Byllesby & Company, Standard Gas and Electric Company, and several other concerns testified (Tr. 3-6):

"Q. In what line of endeavor was the firm of H. M. Byllesby & Company engaged?

A. In the start, it was an engineering and financing concern both. From 1919 on it was simply an investment banking house.

Q. And in what business was the Standard Gas and Electric Company first engaged?

A. In the public utility business.

Q. In what way was it interested in public utilities, as a managerial company, operating company, or owner?

A. Up to 1919 they were largely an investment company. They invested in common stocks ordinarily, and sometimes in preferred stocks and bonds of utility companies. From 1919 on they were in the management business as well as the ownership of these various stocks and bonds.

* * * * * * * * *

Q. Does H. M. Byllesby & Company at this time own a controlling interest in Standard Gas and Electric Company?

A. They own a joint control with eastern people. The eastern people are the United States Electric Power Company.

* * * * * * * * *

Q. I wish you would tell the approximate time of the organization and the purpose of the organization of Byllesby Engineering and Management Company?

A. Well, the approximate time was in the year 1919, I have forgotten the exact month, but it was in that year. The Standard Gas and Electric Company was struggling along and was not in very good shape. We had just gotten through a period where utility costs had been mounting at a great rate during the war, costs of every kind, materials we had purchased, labor and everything else, and we were not getting relief from the Commissions. H. M. Byllesby & Company at that time owned the engineering business. Col. Byllesby started in life as an engineer, one of Edison's associates. We were doing the engineering and management of these properties, that is H. M. Byllesby & Company, and in order to help Standard out at that time we turned over the entire engineering and management which we owned, without one dollar of payment. That was given to Standard gratis in order to help it out and give it an earning statement that it could go on with its business.

Q. In what way was Byllesby Engineering and Management Company organized?

A. It was organized with 100,000 shares of stock of no par value, every share of which is owned by Standard Gas and Electric Company.

Q. And that ownership continues at this time?

A. Yes.

Q. That, then, is a wholly owned subsidiary?

A. It is.

Again, (Tr. 910):

Q. Do you recall a transaction with C. B. Shaffer out of which the present company known as Deep Rock Oil Corporation grew?

A. Well, that is fifteen years ago, a part of it is a little hazy. I do know, however, as I said before regarding other matters, that the utility business was suffering greatly at that time by the greatly increased cost brought about by the war. Earnings of the Standard Gas and Electric Company had shrunk very considerably, and we were looking for something that might improve that condition. I don't remember just exactly how the Shaffer property happened to be offered to us, but I do remember it came into the office, and at that time Col. Byllesby was in London. He was representing the American Expeditionary Forces, getting all the supplies in Denmark, Norway and Sweden. I wrote him kept in touch with these conditions, told him about this proposition, about the Shaffer property. The war was over at that time and he got leave of absence to come home. After he got home we started active negotiations with Shaffer. We knew nothing about the oil business at that time. We were suffering greatly by the high cost brought about by the war and we were looking around for something to help us out, so we got into the oil business in that way. In 1919 the negotiations started. I would say they started in 1918, just after the armistice.

The directors of Byllesby Engineering and Management Corporation were likewise directors of Standard Gas and Electric Company. The directors and officers of Byllesby Engineering and Management Corporation were elected by Standard Gas and Electric Company (Tr. 118). The Byllesby Engineering and Management Corporation was organized to assist the utilities companies controlled by Standard; or

any other companies in which it might be interested (Tr. 55-56).

The Byllesby Engineering and Management Corporation paid the salaries of its executive officers, and also the salaries of the Standard Gas and Electric Company's executive officers. None of the salaries of any of the Standard Gas and Electric Company's executive officers were paid by the Standard (Tr. 26).

Before Byllesby Engineering and Management Corporation was organized, H. M. Byllesby & Company had paid salaries of Byllesby and O'Brien (Tr. 27).

The Standard Gas and Electric Company did not pay any of its employees, nor any rent. This was all paid by Byllesby Engineering and Management Corporation (530-531).

At all times after organization of Byllesby Engineering and Management Corporation, Standard Gas and Electric Company was managed by it. (Tr. 554).

After 1923 practically every annual report of Standard Gas and Electric Company carried a statement that Byllesby Engineering and Management Corporation was a wholly owned subsidiary of Standard Gas and Electric Company, or language of similar import (Trustee's Exhibit D to M).

May 20, 1919, H. M. Byllesby & Company made a contract with C. B. Shaffer, who was then the owner of extensive oil properties located chiefly in Oklahoma and Kansas and was operating a refinery at Cushing, Oklahoma, of the kind which is designated "skimming plant"; the full text of the contract is set forth in Claimant's Exhibit 2. By that contract it was provided: (a) for the organization of Debtor Corporation, and the purchase by H. M. Byllesby & Company of $11,000,000 par value of its bonds, $5,000,000 par value of its preferred stock, and 120,000 shares of its common stock; (b) for the conveyance to Debtor Corporation of the Shaffer properties, including the refinery; (c) for payment to C. B. Shaffer of $15,580,000, as follows:

| | |
|---|---|
| *C. B. Shaffer No. 2.* Cash, | $ 7,000,000 |
| Note of H. M. Byllesby and Company and Standard Gas and Electric Company, or both, for four months with interest at 6% | 1,000,000 |

| | |
|---|---|
| Said note shall be secured by 10,000 shares par value of the preferred stock of the Company, to be issued in the name of C. B. Shaffer and endorsed by him as collateral for the payment of such note. | |
| 44,000 shares of preferred stock, 7% cumulative dividends, par value $100 of the Company to be formed, | 4,400,000 |
| 80,000 shares common stock without par value of the Company to be formed, rated at $1.00 per share, | 80,000 |
| *Theta Oil Company.* | |
| 6,000 shares preferred stock of Company to be formed, | 600,000 |
| *Consumer's Refining Company.* | |
| Cash to purchase physical property from respective holders thereof, | 2,500,000 |
| | $15,580,000 |

(d) for the performance by Debtor Corporation of all contracts existing January 1, 1919, and the receipt by it of all the profits from and after January 1, 1919; (e) that H. M. Byllesby, Arthur S. Huey, Otto E. Osthoff, and J. J. O'Brien were to continue in active service of, and C. B. Shaffer to remain with, the Debtor Corporation, and that the directorate of Debtor Corporation should consist of ten directors, of whom C. B. Shaffer should nominate five, and that H. M. Byllesby should be elected a director and chairman of the board; (f) that there should be a voting trust of all the common stock issued to the parties to the contract, to subsist for ten years, each of the parties to name two trustees.

July 11, 1919, Debtor Corporation acquired the properties embraced in the contract between H. M. Byllesby & Company and C. B. Shaffer in accordance with a resolution of that date, and its stock and bonds were issued as provided in the resolution (Trustee's Exhibit X 16-19).

March 14, 1921, C. B. Shaffer went out of the picture, under the terms set forth in letter of that date from J. J. O'Brien and accepted by Shaffer (Claimant's Exhibit 1); and for the considerations named Shaffer surrendered his holdings of bonds and preferred and common stock of Debtor Corporation,

and he and his four directors, and he and his members of the voting trust, resigned; and it was further stated in the letter, "There will be delivered a quittance of claims as between yourself and *outselves* and as between yourself and the Shaffer Oil & Refining Company."

W. E. Moody, who had been working at the Shaffer refinery since 1917 as an employee of the Consumers Refining Company, went on with Byllesby & Company when they bought the property, and he has ever since continued with Debtor Corporation, and been continuously in charge of the refinery at Cushing since its purchase from Mr. Shaffer in 1919 (Tr. 496).

L. B. Riddle, one of the plaintiffs in Equity 844, was employed by Debtor Corporation in May, 1922, and was in charge of their producing activities from that time until the appointment of receivers in March, 1933 (Tr. 54, Tr. 704).

W. R. Francisco was employed by B. W. Lynch, Vice President and Chairman of Finance Committee of Standard Gas and Electric Company as his field representative shortly after acquisition of Shaffer properties (Tr. 273) and has been connected with Debtor Corporation since 1919 (Tr. 151). He was first employed on a three months' trial and at the end of the first month his employment was made permanent and he has been with Debtor Corporation ever since (Tr. 152). During all these years he has been in the auditing, accounting, and financial end of the business (Tr. 153).

In 1924 Mr. John L. Gray (who was also one of the plaintiffs in Equity 844), an experienced engineer and refinery man, was employed by R. J. Graf, Vice President of Standard Gas and Electric Company to make a survey of, and report upon, Debtor Corporation and its subsidiaries (Tr. 115). About October 1, 1924, Mr. Gray was made executive vice president and general manager of Debtor Corporation, and so continued up to the receivership (Tr. 12-54-135).

At page 274 of the transcript the following statement from the testimony of B. W. Lynch details the method in which affairs of Debtor Corporation were handled, as follows:

Q. During the years from the purchase of that property in 1919 until after the election of Mr. Gray and the removal of the offices of Shaffer Oil & Refining Company to Tulsa, what was your custom with regard to conferences with the officers of that company, in regard to their business problems?

A. About once a month when Mr. Gray and his officers, which included Mr. W. R. Francisco, came to Chicago for their operating conferences with the operating officials of Byllesby Engineering and Management Corporation, immediately after such meetings Mr. Gray and Mr. Francisco would come into my office. The three of us would sit down and go over everything of moment affecting my part of the work, and then Mr. Francisco would usually stay that afternoon, sometimes the next day, going into the details, checking up on his field work, because his being at Tulsa made no difference to us on our contact. We had to keep in touch with him as directly as if he were here in Chicago, as previous to that.

Q. Well, before the removal of the offices to Tulsa, what was your custom in regard to conferences with the officers in charge of Shaffer Oil & Refining Company?

A. Well, my contact at that time would be again what I would term daily conferences. That would not necessarily mean that I would go over there every day, but I would go over there enough times that I would know what was going on daily.

Counsel for Trustee have made a tabulation of the personnel of the directorates of the Debtor Corporation, Standard Gas and Electric Company, Byllesby Engineering and Management Corporation, and Byllesby & Company, in their abstract and brief submitted to me, and while I have not checked it in absolute detail, I have so far checked the same as to feel assured of its correctness and that it tallied with the stipulation of counsel by which the facts in this regard were agreed upon. In order to avoid expanding the bulk of the report proper by inserting here all of this tabulation, I have had the lists of the several directorates, for the respective years, copied in full and have attached the same to my report, identified as Master's Exhibit Four.

Throughout the transactions here involved, the separate corporate entity of each of the respective corporations concerned was at all times maintained.

R. J. Graf, Vice President of Standard Gas and Electric Company, testified:

Q. Were you familiar from time to time with the financial condition of Shaffer Oil & Refining Company and Deep Rock, its subsequent name?

A. Yes, sir.

Q. State whether or not it would have been possible for that company, in its financial condition during the majority of the time from 1919 to 1933, to continue in business without the financial support of Standard Gas and Electric Company.

A. It would not have been. (Tr. 114).

Q. And it could not have existed on March 1, 1928, without that financial assistance, could it?

A. No, sir. (Tr. 130).

Throughout the transactions shown by the testimony in this case, and of which this report attempts to give as nearly as may be a summary, Standard Gas and Electric Company owned more than ninety per cent of the common, and a substantial amount of the preferred, stock of Debtor Corporation. The preferred stock had no voting power except upon failure to pay dividends thereon for six months (a condition which does not appear to have come about), and even in the event of a default in dividend payments for the required length of time, upon these dividends being paid up the preferred stock was thereby deprived of voting rights. And the Master has been unable to find in the record before him any evidence of the existence of any period of time during which there was preferred stock outstanding in sufficient amount to outvote the common stock held at the time by Standard Gas and Electric Company.

On the first day of July, 1922, Debtor Corporation entered into a contract with R. J. Graf, Trustee, to convey to him certain small parcels of ground embraced in its refinery property at Cushing, Oklahoma (said parcels are identified on plat marked Trustee's Exhibit Q); and at the same time covenanted to have said parcels released from the lien of its then outstanding mortgage to Continental & Commercial Trust and Savings Bank, Trustee, and William P. Kopf, Co-Trustee (see Exhibit 2 to "Stipulation"). Debtor Corporation executed the deed to Graf, Trustee, accordingly; it was duly filed and recorded ("Stipulation," paragraph 7). To date R. J. Graf has not executed to any person or corporation a deed or transfer of said land, but still holds the title in trust ("Stipulation," paragraph 8).

The Universal Oil Products Company, on July 10, 1922, granted R. J. Graf a license for the "Dubbs Process," to be

used in a cracking plant to be erected by him (Claimant's Exhibit 5). On the same day, Universal Oil Products Company and Standard Gas and Electric Company made a contract, reciting that Graf represented interests owned or controlled by Standard Gas and Electric Company and agreeing to the assignment by Graf, upon request of said Standard Gas and Electric Company, to such corporation as Standard Gas and Electric Company might designate, acceptable to the Universal, of his license; also that a four-unit Dubbs plant should be erected and installed as part of the contract with Graf, cost guaranteed by Standard Gas and Electric Company, with a provision that if the guaranties in the contract with Graf were not met it might refund moneys Standard gas paid and remove the units (Claimant's Exhibit 4).

It is stipulated in the record, by and between counsel for Claimant and counsel for the Receivers (now counsel for Trustee) that R. J. Graf had never assigned to any one the Universal license, claim, or contract dated July 10, 1922, shown by Claimant's Exhibit 4, and also Claimant's Exhibits 5, 6 and 7 (Tr. 1 to 8).

The four Dubbs stills were built, the construction having begun in 1922. They went into operation in 1923 (Tr. 497). They were erected on the plots of ground conveyed to R. J. Graf, Trustee, by Debtor Corporation (Tr. 506-507).

The testimony shows that afterwards these units were supplanted by another and larger still, and that certain auxiliary equipment was also constructed, and that when the whole had been erected, it made, with the old skimming plant, one complete refinery. All the construction costs were actually paid by Debtor Corporation, and charged on its books, on open account, to R. J. Graf. From the time of the installation of the cracking plant onward, it was operated by Debtor Corporation, and all expenditures for upkeep and betterment were paid, and all earnings taken, by that company.

In 1922, Mr. H. C. Cummins, who had been directing the operations of the public utility end of Standard Gas and Electric Company, but had been in Oklahoma connected with Debtor Corporation for a year or more, getting some knowledge of the oil business, became president of Debtor Corporation, and was such until the spring of 1925. While president his office was maintained in Chicago (Tr. 133-135). He testified that

during his incumbency Debtor Corporation needed money very badly—was on a period when it had to expand, had to close mortgages, its earnings were not good, it had to go ahead, and not stand still; to go ahead meant money; that arrangements to get money were practically entirely from Standard Gas and Electric Company (Tr. 140); that just before he came in, Debtor Corporation secured an appropriation of $50,000 a month for leasing purposes, and they sometimes exceeded that; that the so-called Bradstreet properties were purchased in 1923 (Tr. 141); that in the spring of 1923 Debtor Corporation's production was falling off at an alarming rate, and upon the recommendation of Mr. Riddle, as well as Mr. J. Elmer Thomas, consulting geologist, Debtor corporation purchased the physical properties of Bradstreet Oil Company for $500,000; and its inventory for an additional $150,000 (Tr. 143).

The Bradstreet properties were acquired in the following manner: J. C. Kennedy, an employee of Debtor Corporation in the pipe line department, made a contract February 15, 1923, as J. C. Kennedy, Trustee, with Bradstreet Oil Company (Trustee's Exhibit H) effective February 16, 1923, whereby he purchased the property in question for $600,000. March 22, 1923, J. C. Kennedy, Trustee, transferred this contract, with a contract of Debtor Corporation relating to operation of the properties, to Deep Rock Oil & Refining Company (which had been organized February 26, 1923), in full payment for 9,000 shares of Deep Rock Oil & Refining Company stock (Exhibit 21 to "Stipulation"). The record of the issue and various transfers of that stock is shown by Exhibit 28 to the "Stipulation".

The $650,000 purchase price to Bradstreet Oil Company had been paid as follows: $500,000 by Standard Gas and Electric Company and three $50,000 notes of Debtor Corporation (subsequently paid by Standard Gas and Electric Company), and all charged to account of J. C. Kennedy, Trustee. From February, 1923, to October 1, 1925, Debtor Corporation had expended in development, and additional leases to the Bradstreet property, $1,033,294.32. Meanwhile these properties were operated by Debtor Corporation precisely as it operated its other properties (Tr. 194-198). Interest on J. C. Kennedy, Trustee, account was, until December 22, 1925, charged to Debtor Corporation. Afterwards

this interest charge was eliminated as to October, November, and December, 1925 (see Knourek's answers to 13, 42 and 64, "Interrogatories").

It appears that Standard Gas and Electric Company never charged R. J. Graf, Trustee, with the cost of construction and installation of Dubbs cracking plant, for which Debtor Corporation had paid, and the cost of which, with additions and betterments up to October 1, 1925, amounted to $861,-297.79; but December 22, 1925, Mr. Braheny, general auditor of Standard Gas and Electric Company, wrote O. O. Kerr, general auditor of Debtor Corporation a letter (Trustee's Exhibit "EYE") referring to Debtor Corporation's purchase, March 22, 1923, of 8325 shares of Deep Rock Oil & Refining Company stock for $649,999.00, and to lease of the property of Deep Rock Oil & Refining Company, and to the fact that Debtor Corporation had received from these properties the full earnings, paying all expenses and advances for additions and betterments, no other consideration being paid, and giving directions to Mr. Kerr to make certain entries by way of debit to securities owned, credit to J. C. Kennedy, Trustee, debit to J. C. Kennedy, Trustee, and credit to Standard Gas and Electric Company. As not much space can be saved by undertaking to further summarize the contents of this letter, it is here set forth in full, its words and figures being as follows:

December 22, 1925.

Mr. O. O. Kerr, General Auditor, Shaffer Oil and Refining Company, Tulsa, Oklahoma.

Dear Sir: Referring to lease rental of $75,000 per month from October 1st to December 31st, per our telegram of December 10th, the procedure will be as follows:

Shaffer Oil and Refining Company on March 22, 1923, purchased from J. C. Kennedy, Trustee, 8,325 shares no par value capital stock of the Deep Rock Oil and Refining Company for consideration of $649,999, and leased the property of the Deep Rock Oil and Refining Company, and received from these properties the full earnings, paying all expenses and advancing funds for additions and betterments, no other consideration being paid. No entries had been placed on the books of Shaffer Oil and Refining Company for the purchase of this stock but the investment was advanced by the

Standard Gas and Electric Company and has been charged to you in Open Account.

To record the above transaction it will be necessary for you to make the following entries on your books:

Debit:

Securities Owned, 8,325 shares Deep Rock Oil and Refining Company stock ..... $649,999.00

Credit:

J. C. Kennedy, Trustee ..... 649,999.00
to record purchase of Capital Stock of above Company.

Debit:

J. C. Kennedy, Trustee, ..... 649,999.00

Credit:

Standard Gas and Electric Company ..... 649,999.00
to transfer the Open Account to latter company.

On October 1, 1925, Standard Gas and Electric Company purchases from Shaffer Oil and Refining Company the Capital Stock of Deep Rock Oil and Refining Company for the same consideration, or $649,999.00, and entry should be made on your books:

Debit:

Standard Gas and Electric Company..... $649,999.00

Credit:

Securities Owned ..... 649,999.00
to record sale of above stock to Standard Gas and Electric Company.

Shaffer Oil and Refining Company will then lease the property of the Deep Rock Oil and Refining Company and will pay therefor rental for 1925 of $225,000, pro-rated over last three months of 1925 and subsequent thereto will pay rental of $600,000 per annum in equal monthly installments and lease to this effect is now being drawn by Cummins Roemer and Flynn.

As the new lease is dated October 1, 1925, and the stock was purchased under that date, Standard Gas and Electric Company will give Shaffer Oil and Refining Company the

credit as above and interest on this amount will cease on that date so that any entries you have made in October and November allowing Standard Gas and Electric Company credit on Open Account in this amount will be reversed.

As to the division of the rental between your Production and Refinery Departments, this will have to be worked out by you. After you have arrived at this division of rental charge wish you would advise us, sending details as to basis used.

Yours very truly,

B. F. BRAHENEY, General Auditor.

It was admitted at the hearing that there never was any written lease of the Bradstreet properties and the cracking plant until the one bearing date October 1, 1925, which appears however not to have been actually executed by Debtor Corporation until March of 1926 (see Trustee's Ex. XX). This lease was renewed by another dated October 1, 1930 (see Trustee's Ex. Y). These leases provided for a rental of $75,000 per month for October, November and December, 1925, and $50,000 per month for each and every month thereafter, and a total rental charge thereunder against Debtor Corporation of $4,525,000 is included in the claim of Standard Gas and Electric Company herein. By book entries Standard Gas and Electric Company charged Debtor Corporation with these rentals as they accrued (excepting about $500,000 actually paid by Debtor Corporation), and dividends of like amount were immediately made by Deep Rock Oil & Refining Company.

It appears from the contract of May 20, 1919, between C. B. Shaffer and H. M. Byllesby and Company (Claimant's Exhibit 2), that Shaffer was paid for his oil properties and the Theta Oil Company, and Consumers Oil Company refinery, in addition to 50,000 shares of preferred stock of Debtor Corporation and 80,000 shares of common stock of Debtor Corporation, the sum of $9,500,000 cash, and a $1,000,000 note of H. M. Byllesby & Company and Standard Gas and Electric Company. The details and respective items of the payment have already been set out in connection with previous mention of this contract.

It further appears that at the corporate birth of Debtor Corporation the amount of its stock issued and paid for by

H. M. Byllesby & Company produced only sufficient funds to pay approximately one-half the amount of required cash plus the $1,000,000 note to Shaffer above mentioned. At the beginning it raised funds by a bond issue of $15,000,000 of which $12,000,000 were sold and $3,000,000 pledged as collateral to a note of $2,000,000 (Tr. 42-44; tr. 304-305; tr. 634-636).

Under the contract of May 20, 1919, H. M. Byllesby & Company agreed to purchase 120,000 shares, and C. B. Shaffer 80,000 shares, of Debtor Corporation's common stock, but by the provision for a voting trust Shaffer, the minority holder, had joint control. However, Shaffer was subsequently divorced from the company, pursuant to the terms of O'Brien's letter of March 14, 1921; and thereafter, as shown by annual reports of Standard Gas and Electric Company, its stock ownership was sufficient to enable it to have and maintain control of Debtor Corporation. Standard Gas and Electric Company's annual reports for 1921 and 1922 state that the Standard owned 98 per cent of the common stock of Debtor Corporation. The 1926 report shows Standard Gas and Electric Company owned 158,000 shares, and the public 10,464 shares. The 1928 report showed Standard Gas and Electric Company holding 569,448 shares of Debtor Corporation's outstanding total of 589,000 shares, the remaining 19,552 being owned by the public. In 1929 there were outstanding 580,250 shares of Debtor Corporation's common stock, of which Standard Gas and Electric Company owned 560,448 shares and the public 19,802 shares. In 1930 the Debtor Corporation's total outstanding was 599,475 shares, the Standard owning 579,132 shares and the public 20,343. In 1931, the total outstanding was 599,475 shares, Standard owning 579,132 shares and the public 20,343 shares. In 1932 the annual report of *Stand* Gas and Electric Company (page 7) states: Standard owns 579,132 shares of Deep Rock Oil Corporation common, 96.60 per cent of the total outstanding. And from the proofs in this proceeding it does not appear that there was at any time sufficient preferred and common, in other hands than Standard Gas and Electric Company, to have outvoted the Standard, even though the preferred stock had possessed full voting power.

In addition to the $12,000,000 of bonds issued and sold at organization of Debtor Corporation, there were, from 1921

to 1928, other issues of notes and securities totaling a good many millions; so that at the time the present outstanding issue of six per cent convertible gold notes dated March 1, 1928, due March 1, 1933, was authorized and disposed of, the indebtedness of Debtor Corporation amounted to $20,000,000 plus, as follows:

| | | |
|---|---|---|
| (1) | Principal and interest on first mortgage bonds | $1,922,110.23 |
| (2) | Two-year gold notes, with interest and service charges, | 7,728,525.00 |
| (3) | Note to Standard Gas and Electric Company due Dec. 31, 1931, | 4,250,000.00 |
| (4) | Balance then claimed by Standard on Open Account, | 6,872,400.00 |

The claim of Standard Gas and Electric Company herein, as shown by Exhibit A to its petition of intervention, embraces a multitude of transactions, extending from June, 1919, to February, *1953*, and includes cash advances for and on account of Debtor Corporation; assumption of accounts due other companies (including supervision charges to Byllesby Engineering and Management Corporation); interest on Open Account; interest on Notes Receivable; interest on five year notes owned by Standard Gas and Electric Company; dividends on common and preferred stock; transfer of J. C. Kennedy, Trustee, account; acquisition of 8,325 shares of common stock of Debtor Corporation; transfer of Notes Receivable to Open Account; and retirement of Debtor Corporation's notes; in all, $52,529,709.34. Against this, credits are set out which total $43,187,066.97. These credits embrace cash paid on account; some interest on accounts and notes receivable; miscellaneous cash receipts and reimbursements; notes, bonds, and stock received, including sale of Debtor Corporation's notes to H. M. Byllesby & Company for account of Debtor Corporation, and Debtor Corporation's note in favor of Bradstreet Oil Company issued for account of Standard Gas and Electric Company for property of J. C. Kennedy, Trustee; and purchases of various securities of Debtor Corporation, and miscellaneous expenditures on account of Debtor Corporation, and for extensions and additions to properties of Deep Rock Oil & Refining Company.

The difference between the total debits, as listed in Claim-

ant's Exhibit A to its petition of intervention and the total credits shown thereon is $9,342,642.37. The last named figure is the amount of its claim as originally asserted in this proceeding.

While the statement and analysis shown by Exhibit A to Standard Gas and Electric Company's petition of intervention embraces the entire period, the Debtor Corporation, and the Standard Gas and Electric Company, at the time of the $10,000,000 of Debtor Corporation's gold notes now outstanding, attempted to wash out all that part of the claimed indebtedness to Standard Gas and Electric Company prior to February, 1928, by a sale of shares of Debtor Corporation's common stock to Standard Gas and Electric Company for $11,122,400.00. Counsel have stipulated ("Stipulation", paragraph 7) that Exhibit 7 to the "Stipulation" is a memorandum of the items comprising Debtor Corporation's then indebtedness to Standard Gas and Electric Company, as furnished by B. F. Lynch in his testimony herein.

This memorand furnished by Mr. Lynch (Exhibit 7 to "Stipulation") discloses that there was *than* a claimed balance on Standard Gas and Electric Company's open account against Debtor Corporation of $6,836,195.85, *amd* that it also held a promissory note from Debtor Corporation due December 31, 1931, in the sum of $4,250,000. These two items make a total of $11,086,195.85, in settlement of which Debtor Corporation sold Standard Gas and Electric Company 221,600 shares of its common stock at an agreed valuation of $50 per share; and at the same time, to round out Standard Gas and Electric Company's holding of Debtor Corporation's common stock to a total of 580,000 shares, the Debtor Corporation also sold Standard Gas and Electric Company 848 additional shares of common stock at $50 per share, amounting to $42,400, thus making the aggregate of the transaction the above mentioned sum of $11,122,400.

By paragraph 47 of "Stipulation", counsel have agreed that seven per cent interest, computed on monthly balance in Standard Gas and Electric Company's account after February 24, 1928, amounted to $1,888,457.62, and that if this interest had been computed and charged at the simple rate of five per cent per annum, the amount would only have been $1,193,045.31.

The amended objections of the Trustee to the claim of Standard Gas and Electric Company challenge the claim in its entirety, and object to the allowance of any part thereof; and in the alternative, if Standard Gas and Electric Company be given the status of a creditor of Debtor Corporation, that various items of charges in the claim be disallowed, because, as Trustee alleges: (1) that H. M. Byllesby & Company and Standard Gas and Electric Company are now, and have been for 18 years last past, closely allied corporations; (2) that Byllesby Engineering and Management Corporation was organized, and has at all times existed, as a mere agent, adjunct, and department of Standard Gas and Electric Company; (3) that Deep Rock Oil and Refining Company was organized in 1923 for the fraudulent purpose of evading the lien of holders of Debtor Corporation's first mortgage bonds then outstanding; and the cracking plant was constructed in the name of R. J. Graf, Trustee for this purpose; and for the same reason, properties purchased from Bradstreet Oil Company were taken in the name of J. C. Kennedy, Trustee; (4) that R. J. Graf and J. C. Kennedy were in fact trustees for Debtor Corporation; (5) that Deep Rock Oil & Refining Company was organized, and has at all times existed, as an agency, department, and adjunct of Debtor Corporation; and that Deep Rock Oil & Refining Company is not, and never was, an operating company; (6) that the leases of the cracking plant and the Bradstreet properties of October 1, 1925, and December 20, 1930, were in effect leases from Debtor Corporation to itself, as lessee; and operated, and were intended by Standard Gas and Electric Company to operate, as mere conduits through which Debtor Corporation's money and income could be diverted to Standard Gas and Electric Company; (7) that by virtue of the leases above named Deep Rock Oil & Refining Company was given the appearance of having an income; and federal income taxes for 1925, 1926 and 1927 were charged against it, and such taxes to the amount of $191,565.91 were paid, and charged to Debtor Corporation; and that Trustee is entitled to judgment by way of set-off against Standard Gas and Electric Company for the same; and all rentals paid by Debtor Corporation under the leases should be treated as payments of Standard Gas and Electric Company's account, and the $3,050,000 charged as rental in Standard Gas and Electric Company's account after January 31, 1928, should be eliminated; (8) that interest

charged in Standard Gas and Electric Company's claim on open account balances, $4,819,222.07, should be disallowed as illegal and unlawful under the laws of Illinois, which governed the transactions; (9) that the supervision fees to Byllesby Engineering and Management Corporation, $1,219,034.83 should be disallowed because other charges in the account covered all the management corporation was ever entitled to and this was only another way of diverting funds from Debtor Corporation to Standard Gas and Electric Company; (10) that the item of $840,672 and interest thereon, being 1929 dividend on Debtor Corporation's common stock owned by Standard, was illegal as having been caused to be declared by Standard Gas and Electric Company through its stock control of Debtor Corporation, contrary to the laws of Delaware, according to which dividends are allowable only out of net profits; (11) that $124,300.34 on account of interest and discount, which Standard Gas and Electric Company charged in connection with its $4,250,000 note of December 31, 1926, given by Debtor Corporation to it, and payable December 31, 1931, was improper; (12) that an aggregate sum of $5,010,533.58 (composed of excess interest on rentals, engineering and management supervision fees, interest on engineering and supervision charges, interest on entire account, all charged after February 24, 1928) should be deducted from Standard Gas and Electric Company's asserted claim of $9,342,642.37, leaving a balance after said deductions of $4,332,108.79; (13) that there should be deducted $840,672.00, Debtor Corporation's common stock dividends, and also the monthly interest computed thereon from January 31, 1929, to February 28, 1933; if all these deductions and allowances should be made, Standard Gas and Electric Company's claim would thereby be brought down to approximately $3,500,000, instead of the $9,250,000 plus, for which it was filed.

The objections of John M. Taylor and William H. Taylor to claim of Standard Gas and Electric Company aver that said objectors are owners of 550 shares of seven dollar convertible preferred stock of Debtor Corporation, and that there are 50,000 shares of said preferred stock outstanding; and on the same at the time of original receivership herein (Feb. 28, 1933) there were unpaid cumulative dividends in the sum of $758,533.33; and of the 50,000 shares of preferred

stock, 969 shares are owned by Standard Gas and Electric Company and the remainder by the public; that the outstanding common stock of Debtor Corporation consists of 599,475 shares, of which Standard Gas and Electric Company owns 579,132 shares; that the holders of preferred stock are not represented, either individually or as a class, in the proceedings involving the reorganization of Debtor Corporation; that the interest of holders of preferred stock are widely divergent from the interests of creditors and holders of common stock; that the position of the Trustee does not permit of his protection of the interests of the preferred stockholders; that the allowance or disallowance of the claim of Standard Gas and Electric Company affects substantially the rights of preferred stockholders in the assets of the Debtor Corporation; that the allowance or disallowance of the claim of Standard Gas and Electric Company in the sum of $9,342,642.37, or any other sum of substantial amount, may mean the difference between the preservation or destruction of the greatest portion of the equity of holders of the preferred stock in the assets of Debtor Corporation.

The Taylors also object to the claim of Standard Gas and Electric Company for the reasons and in the manner set forth by the Trustee's objections thereto; and in addition to the items to which objection is made by the Trustee, object to all other items in Standard Gas and Electric Company's claim, on the ground that they are bookkeeping *entires* merely, and, in effect, advance of the amounts by Standard Gas and Electric Company to itself, for which no claim can be properly filed in this proceeding.

And as further objection, they aver that Standard Gas and Electric Company operated Debtor Corporation as a subsidiary in such manner as to make said Debtor Corporation a mere instrumentality, or alter ego, of the Standard Gas and Electric Company; that the Standard burdened Debtor Corporation with fraudulent and assumed charges in connection with the leasehold described in the objections filed by Trustee; with exorbitant managament charges and unwarranted and illegal charges of interest on the so-called open account between the two companies; that, by virtue of the fraud, mismanagement, unlawful and inequitable conduct of Standard Gas and Electric Company in its administration of Debtor Corporation, holders of preferred stock are en-

titled to have claim of Standard Gas and Electric Company disallowed, or in any event subordinated to the interests of preferred stockholders from the standpoint of sharing in assets of Debtor Corporation.

The Taylors further aver that a plan of reorganization has been submitted to this court by said Debtor Corporation which is unfair and inequitable, and which seeks to wipe out in substance the equity of preferred stockholders in said Debtor Corporation.

It will be observed that all of the foregoing matters and things have to do with the disposition of the claim of Standard Gas and Electric Company under and pursuant to the original reference thereof by this court to the Special Master, by its several orders in the receivership proceeding, the original bankruptcy proceeding, and the present bankruptcy proceeding. Until about the middle of February, 1935, it does not appear that any move had been made on the part of any body concerned for any settlement of the controversy by way of compromise or composition. About that time Mr. J. J. Shinners, chairman of the reorganization committee, took up the question with counsel for Trustee, and also discussed the same with counsel for Claimant. Mr. Shinners made two trips to Tulsa and very earnestly urged some composition of their differences; and the wisdom and advisability of a compromise. A memorandum of conversation between Mr. Shinners and Mr. Knourek, on the one hand, and Mr. Ramsey, Mr. deMeules and Mr. Martin, representing the Trustee, touching a tentative basis for an agreed judgment, has been filed with the Special Master. It is attached to this report, identified as Master's Exhibit Five, and it gives the background for consideration of the pending offer made by Standard Gas and Electric Company which has been recommended by the Trustee, and which constitutes the actual matter for decision at this time.

The Claimant and the Trustee, through their respective counsel, after some preliminary sparring and quite extended negotiations, did finally agree upon mutually satisfactory terms of settlement, being the proposed compromise submitted to the court, and by the court referred to the Master. The offer of Standard Gas and Electric Company, acceptance and approval of which the Trustee recommends, is as follows:

After reciting that all of the matters contended by either party are contested by the other and not yet determined; that the urgent necessity for an early termination of the litigation, and a reorganization of Debtor Corporation, is recognized, the Standard offers, as a compromise and settlement only, and subject to final approval, to receive in satisfaction of its claim;

(A) The principal sum of ..... $ 2,376,076.31;
interest on said principal sum at the rate of five per cent per annum from the dates of the several advances constituting said sum to February 28, 1933, being ..... 407,886.18;
and in addition thereto interest on said principal sum of $2,376,076.31 at the rate of five per cent per annum from February 28, 1933 to the date of entry of judgment on this offer; the aggregate of such amounts to be on a parity with the $10,000,000 principal amount of notes of Deep Rock Oil Corporation dated March 1, 1928, and interest thereon at the rate per annum allowed by the court in this cause from March 1, 1933 to date of entry of judgment on this offer, and with other indebtedness of Deep Rock Oil Corporation to other persons; and

(B) The sum of ..... 1,585,485.18
with interest on $1,597,985.18 from February 28, 1933, at five per cent per annum simple interest to August 5, 1933, and interest on $1,585,485.18 at five per cent simple interest per annum from August 5, 1933, to the date of entry of judgment on this offer, which judgment for the principal sum of $1,585,485.18, with interest as specified, shall be subordinated to the claims of all other creditors of Deep Rock Oil Corporation, including the holders of the ten million dollar note issue.

And further, as part of this compromise, also offers to cause the entire outstanding stock of 9,000 shares of Deep Rock Oil and Refining Company to be transferred to the

Trustee; to have R. J. Graf convey to Trustee, or Debtor Corporation, the land heretofore conveyed to Graf by Debtor Corporation, with improvements thereon; and also to surrender the promissory note of Deep Rock Oil & Refining Company dated January 1, 1931, in the principal sum of $1,894,592.11, and all the claims of Standard Gas and Electric Company against Deep Rock Oil & Refining Company.

While as already stated, the Trustee recommends the acceptance and approval of the above offer of compromise and settlement, John M. Taylor and William H. Taylor object thereto and state their grounds of objection as follows:

(1) That it will mean the allowance of a claim of approximately $4,750,000 entitled to priority over holders of preferred stock in sharing the assets of Debtor Corporation.

(2) That somewhat less than two years have elapsed since the controversy has been referred for a report on findings of fact and law, and many hundreds of pages of testimony have been taken, along with hundreds of pages of interrogatories and exhibits, and the proposed settlement has been drawn up just prior to the time which was to be fixed for the final argument of the facts and the law before the Special Master.

(3) That the facts disclosed are for the most part uncontroverted. The position of these objectors is that under the facts already before the Special Master there can be no justification whatever for the allowance of the claim to the Standard Gas and Electric Company against the Debtor Corporation.

(4) That the position of these objectors is that not only does the record in these proceedings disclose that the Standard Gas and Electric Company is not entitled to the allowance of its claim in any amount whatsoever against the Debtor Corporation, but that the Standard is liable to Debtor Corporation estate in an amount in excess of $15,000,000.

(5) That the record of these proceedings discloses that Standard Gas and Electric Company operated the Debtor Corporation as its own instrumentality, adjunct, or alter ego.

(6) That the record further discloses the Debtor Corporation was completely dominated by Standard Gas and Electric Company and operated as a part of the business of

Standard, and had no independent factual existence of its own, but was operated purely for the benefit of Standard, and entirely subservient to its interests.

(7) That the record further discloses that the Standard Gas and Electric Company operated Debtor Corporation as a department of its own business, without regard for the interests of Debtor Corporation, or the outside public to which Debtor Corporation was indebted, or to the public which held approximately $5,000,000 par value of Debtor Corporation's preferred stock.

(8) That the record further discloses Debtor Corporation was originally formed as a new department of Standard Gas and Electric Company, and that Standard and associate interests undertook to pay a purchase price in excess of $15,000,000.

(9) That Standard Gas and Electric Company and associate interests sought from the inception to saddle Debtor Corporation with the obligation to pay off the purchase price, and failed to supply Debtor Corporation adequate means for proper operation of its business.

(10) That from the inception, and until date of receivership, March 1, 1933, Debtor Corporation was kept at all times financially dependent upon Standard for operation of its business, and almost continuously throughout that period in imminent danger of having its existence wound up for lack of funds.

(11) That throughout the approximately thirteen years of Debtor Corporation's existence, Standard Gas and Electric Company supplied from time to time the necessary funds which Debtor Corporation required for the operation of its business. That the advancement of these funds was necessitated by inadequate capital structure supplied by Standard. That advancements thus made to Debtor Corporation throughout the period mentioned were in fact and in law investments of capital by Standard Gas and Electric Company for furtherance of the corporate purposes of Debtor Corporation.

(12) That Standard Gas and Electric Company, throughout existence of Debtor Corporation, sought from time to time to withdraw its necessary capital investments in Debtor

Corporation, thereby fraudulently diverting assets which should have been available for payment of Debtor Corporation's creditors and for protection of interests of outside public holding preferred stock, entitled to payment before repayment to Standard Gas and Electric Company; that funds diverted amounted to $20,000,000, as shown by Exhibit A to Standard Gas and Electric Company's claim.

(13) That by virtue of Standard Gas and Electric Company's operating Debtor Corporation as its own instrumentality, it became liable for its debts and should be made to account for a sufficient sum to pay all debts of Debtor Corporation, other than its own claimed debt.

(14) That Standard Gas and Electric Company, having operated Debtor Corporation as its own instrumentality, adjunct, or alter ego, is liable to the undisclosed principal for all debts incurred and owing by Debtor Corporation.

(15) That in no event can Standard Gas and Electric Company's claim be allowed, because of its operation of Debtor Corporation as an instrumentality or adjunct, and any amount claimed by Standard should be disallowed, because a capital investment in capital structure of Debtor Corporation.

(16) That because of Debtor Corporation's operation as an adjunct or alter ego of Standard Gas and Electric Company, the debts and obligations of Debtor Corporation should be deemed obligations of Standard Gas and Electric Company.

(17) That under facts disclosed by the record, Standard Gas and Electric Company should be adjudged liable to estate of Debtor Corporation in an amount in excess of $20,000,000.

(18) That Standard Gas and Electric Company and Byllesby Engineering and Management Corporation, by method of handling Debtor Corporation, were doing business in Oklahoma without license, all their contracts were illegal, and the amount Standard seeks to recover constitutes debts accruing from illegal contracts upon which Standard Gas and Electric Company cannot recover.

(19) That interest charges of Standard Gas and Electric Company were subterfuges for usury, and it should be

charged under Oklahoma law with double such usurious interest; or, if held to be under Illinois law, Standard Gas and Electric Company cannot collect any interest whatsoever.

(20) That the following specific items should be disallowed:

| | |
|---|---|
| (a) Deep Rock Oil & Refining Co. rentals, | $4,525,000.00 |
| (b) Byllesby Engineering & Management Corp'n | |
| 1. Supervision Fee | 1,219,034.83 |
| 2. Sundry Charges | 230,463.16 |
| (c) H. M. Byllesby & Company | 752,647.10 |
| Compensation paid | 143,425.00 |
| Compensation paid | 168,775.00 |
| Compensation paid | 107,850.49 |
| (d) Dividends on Preferred Stock | 1,555,981.00 |
| Dividends on Common Stock | 1,946,672.00 |
| (e) Sale of Shaffer Oil & Refining Company 8's of 1923 to Company | 451,237.33 |
| (f) Acquisition of Common Stock of Home Oil Company | 175,000.00 |
| (g) Payment of Federal Income Tax of Deep Rock Oil & Refining Corp. | 29,565.91 |
| Sundry Expenditures | 1,087,569.57 |
| (h) Discount of Deep Rock Notes: | |
| 1. $10,000,000 note issue, discount | 600,000.00 |
| 2. 7,500,000 note issue, discount | 275,000.00 |
| 3. 4,250,000 note issue, discount | 170,000.00 |
| 4. 1,057,300 8% note issue, discount | 90,000.00 |
| 5. 100,500 6% Bond issue, discount | 20,000.00 |
| (i) Interest on Open Account Balances | 4,819,223.07 |
| Interest on Notes Receivable | 184,087.93 |
| Interest on Five Year Six Per Cent Notes Owned by Standard Gas and Electric Company | 331,500.00 |

(21) That the record before the Special Master does not disclose any independent audit of books of Debtor Corporation determining how much funds were diverted from Debtor Corporation which do not appear on the account submitted by Standard.

(22) That, in the event that in the opinion of the Special Master it does not specifically appear from the present

record that the corporate structure of the Debtor Corporation should be disregarded from the standpoint of determination of the liability and claim of Standard Gas and Electric Company, the proceedings be reopened for further proofs which, in the opinion of objectors, should be obtainable in support of the contentions herein made.

At the hearing of March 25, 1935, counsel for objectors, John M. Taylor and William H. Taylor, called as witnesses, Mr. George S. Ramsey, one of Debtor Corporation's counsel, and Mr. J. H. Shinners, chairman of the reorganization committee, and their testimony was taken in shorthand and reduced to typewriting by Mr. G. E. Brown, shorthand reporter.

Attention is also called to the fact that whereas counsel for the Taylors asserted that the interests of preferred stockholders in Debtor Corporation were without representation on the reorganization committee, Mr. Oates, attorney for the reorganization committee, who was present at the hearing, somewhat indignantly repelled the suggestion, and stated: "We are not familiar with all the details, but we are confident from what we know of the record, and from what has been said here today, and from the meagre showing made by the objectors, in our humble opinion, that the composition should be approved."

Oral arguments were made at this hearing by counsel for Claimant, by counsel for the Trustee, and by counsel for John M. and William H. Taylor. The Master has been also furnished by each of these respective counsel with elaborate, thorough, and very able briefs, in which every question both of law and fact has been thoroughly discussed and every phase of these complicated matters clearly and forcefully presented. Typewritten copy of the evidence taken and proceedings had before Special Master March 25, 1935, by G. E. Brown, Shorthand Reporter, pages whereof are numbered 658 to 735 inclusive, is herewith returned as a part of the record in this cause.

Master's Appraisement of the Situation.

Under the last order of reference (March 8, 1935), the matter of findings and report, at the present stage of the proceedings, was narrowed to the proposition of whether this controversy ought to be disposed of by acceptance and

approval of the proposed compromise, or that compromise rejected.

Rejection of the compromise would, of course, result in the necessity for adjudicating the issues made by the pleadings and the evidence upon the lines originally laid down by the contending parties. Nevertheless, there is obviously no escape from a something more than superficial consideration of the main controversy, in order to deal intelligently with the tendered compromise.

This situation has in no small degree accentuated the Master's difficulties. I have, however, studiously endeavored to avoid a fixed and definite conclusion upon the primary questions of law and fact; and have sought to keep my mind, as nearly as may be, in such state as to be able, if the compromise should be rejected by the court, to again take up and deal with those questions free of any hard and fast preconceived judgment thereon.

The position and theory pursuant to which Claimant intervened in this cause was, that all the corporations involved were, in law and equity, separate and distinct entities; that such control of Debtor Corporation as was exercised by Standard Gas and Electric Company was unobjectionable, in that the control of the latter corporation was no more than it was entitled to as a matter of law, exercised in normal manner, by virtue of its majority stock ownership; that any control it had exercised was without fraud or injury to Debtor Corporation, and if a despotism at all, was a benevolent despotism; that the mere fact that the parent and subsidiary during the course of their dealings have had the same directors, or that, if not identical, a large number of the same persons were directors on each board, was not sufficient to destroy the identity of the subsidiary company, or render it a mere department or adjunct of the parent company; that the financing of the subsidiary by the parent corporation, even though there existed such community of membership of the two directorates, does not necessarily require application of the instrumentality rule, and that Claimant has been guilty of neither legal nor moral wrong in its dealings with Debtor Corporation and is entitled to allowance of its claim in toto.

On the other hand, the defense asserted by Trustee against

recognition or allowance of the claim of Standard Gas and Electric Company, or any part thereof, is based upon the proposition that not only was Deep Rock Oil & Refining Company organized for a fraudulent purpose, and everything belonging to it has in reality at all times been the property of Debtor Corporation, but that Byllesby Engineering and Management Corporation was a dummy, and Debtor Corporation no more than a department and instrumentality of Standard Gas and *Electrid* Company; that consequently, Standard Gas and Electric Company not only has no allowable claim, but that any deficiency in the assets of Debtor Corporation should be made up by Standard Gas and Electric Company; and that in any event, even though Debtor Corporation, and the other corporations involved, be regarded as separate and distinct entities, nevertheless many items of Standard Gas and Electric Company's account, which are specifically objected to, should be disallowed, and its claim thereby reduced to less than half the amount demanded; also, that the cracking plant, Bradstreet Oil Company properties, and stock of Deep Rock Oil & Refining Company should be restored to Debtor Corporation.

John M. Taylor and William H. Taylor, the latest entries in the field of dispute, have filed objections to claim of Standard Gas and Electric Company "for the reasons and in the manner and extent set forth by the objections filed to said claim in behalf of Trustee", as amended, averring that all the advancements claimed by Standard Gas and Electric Company were never, in fact, made, except as bookkeeping transactions; and that to the extent such advancements may have been made they were, in effect, advancements by Standard Gas and Electric Company to itself, for which no claim can properly be filed in these proceedings.

Also, after the offer of compromise had been made, and Trustee had recommended approval and acceptance of same, John M. Taylor and William H. Taylor filed "Objections to Proposed Settlement of Standard Gas and Electric Company," supported by an able brief, earnestly insisting that the proposed settlement should be rejected by this court, and they ask, moreover, that amended pleadings be permitted them, and Standard Gas and Electric Company charged with liability over and above the amount of its asserted claim, in an amount in excess of $20,000,000.

In the various briefs of the respective counsel a wealth of authority has been cited; and the Master has read and considered a very great number, but not all, of the cases cited, and has also examined the text book authorities to which references have been made, as well as some others, in the course of his study of the voluminous facts presented and the numerous questions of law arising.

There is practical unanimity in both the opinions of judges and the observations of text writers, as to the fundamental principles which should govern a court of equity when it undertakes to declare that although two corporations have, to all outward seeming, maintained separate and distinct corporate existence, one of them is nevertheless to be regarded as merely a department, or adjunct, of the other. But out of the whole mass of judicial utterance, and redactions of text writers, it appears to the Master as only necessary to refer to two or three for the broad lines which should be followed in any such inquiry.

Mr. Justice Clarke, in *United States v. Reading Co.*, 253 U. S. 26, while admitting that the mere ownership of all, or substantially all, the stock of one corporation by another, did not necessarily create an identity of corporate interest between the two, said:

"Where such ownership of stock is resorted to, not for the purpose of participating in the affairs of the corporation in which it is held in a manner normal and usual with stockholders, but for the purpose of making it a mere agent or instrumentality, or department of another company, the courts will look through the forms to the realities of the relation between the companies as if the corporate agency did not exist, and will deal with them as the justice of the case may require."

In *Dunnett v. Arn*, 71 Fed (2d) 912, which, though it did not involve *two* corporations, did involve identically the same principle, Judge Phillips, who wrote the unanimous opinion of the court, declared, "Corporate entity may be disregarded where not to do so will defeat public convenience, justify wrong, protect fraud, or defend crime."

The little book of Frederick J. Powell, of the New York Bar, "Parent and Subsidiary Corporations", contains a most admirable analysis of the whole law of the subject, and the

author cites and quotes from every adjudicated case of major importance. In Section 4, beginning on page seven, reference is made to the dual aspect in which the instrumentality rule presents itself; one being when the properties and business of two companies have been kept sufficiently distinct on the face of things to be identified and distinguished; the other, where the properties and affairs of the two have been so inextricably confused that it is impossible to segregate them as to the transactions in suit. After quoting from the Reading case the paragraph hereinabove set out, the author, on page eight, goes on to say:

"These two classes are both manifestations of the element of control, and differ only in degree. In one, the control is not exercised to the point of completely confusing the separate identities and activities of the two corporations; in the other, it is. And in both the subsidiary is a mere 'instrumentality.'"

Also, in Section 6, where there is an attempted enumeration of the circumstances rendering the subsidiary a mere instrumentality, this author prefaces the list with the statement, "It is manifestly impossible to catalogue the infinite variations of fact that can arise, but there are certain common circumstances which are important and which, if present in the proper combination, are controlling"; then proceeds to list twelve indicia, the existence of which tend to mark the subsidiary as a mere instrumentality or adjunct. In the instant case these indicia are pressed with great zeal and earnestness by the objectors John M. Taylor and William H. Taylor.

All of this seems simple and clear enough—the rub comes when an attempt is made to reach a verdict on the situation presented by the variant facts appearing in each individual case. The famous Jacobite toast of Dr. Byrom,

"God bless the King, of Church and State defender; God bless (no harm in *blessing*) the Pretender! But who Pretender is, and who the King—God bless us all! that's quite another thing" would appear to be, in principle, not wholly inapplicable. To state the broad lines, and apposite principles, governing the question of when the separate corporate forms of two distinct corporations should, in order to accomplish justice, be disregarded, and one of them held to be

only an adjunct or department of the other, is one thing; to solemnly adjudge that the facts of a given case come within the rule declared, and by judicial decree evolve one corporation out of two previously existing legally distinct organizations, quite another. Always the problem is bound to be affected by the judicial temperament, previous habit of thought, and individual point of view of the judge, or judges, pronouncing the judgment.

One of the complaints of the common law lawyers, in their struggle against the establishment of chancery jurisdiction, was the alleged latitude of range the flexible jurisprudence of the equity courts permitted. They said cases could be decided therein in one way or another, in accordance with the length of the foot of the chancellor who ruled on the case. Certainly there is no yardstick by which the contentions of the parties in this cause can be determined, as you would measure so many acres of ground, or so many bolts of cloth.

Undoubtedly the amounts involved preclude even a hope that this litigation would end in the trial court, if the cause proceed throughout at arm's length, and either Claimant or Trustee be allowed the full measure of relief to which they respectively assert they would be ultimately entitled. And, conceivably, it could result, that after two or three years of strenuous litigation, and a trip to the Supreme Court of the United States, the parties would again be remitted to this forum, with a great many subsidiary questions remaining still to be finally settled.

The late Judge Kenyon, in *Wabash v. American Refrigerator & Transit Co.*, 7 Fed. (2d) 351 (decided some ten years ago), referred to *"these days of long drawn out litigation and ever-increasing expense of trial."* The court may well take judicial cognizance that the conditions stated by that sound and eminently practical judge have not waned, but rather increased, in the past decade.

Should the contention of Claimant that the separate entities of Standard Gas and Electric Company and Debtor Corporation must be recognized, and preserved, be sustained, there would yet remain a fruitful field for litigation over the questions of what was the status of Deep Rock Oil & Refining Company with regard to Debtor Corporation; to whom belonged the Refining Company stock; who was the real owner

of the cracking plant and the Bradstreet leases; what should be done about the lease contracts and rentals which are the subject of such strenuous controversy; what part, if any, of the charges of Byllesby Engineering and Management Corporation should be allowed; what law should be applied with respect to interest, and whether any interest at all ought to be allowed, and if so at what rate.

The principal contenders have adjusted their differences, and both seek the court's approval of what they have done. The Taylors are the only objectors to the proposed compromise. At the hearing on March 25, 1935, their counsel called to the witness stand both Mr. Shinners, chairman of the reorganization committee, and Mr. Ramsey, one of Trustee's counsel. The evidence given by those gentlemen consisted for the most part of matter of opinion only; but even so, it seems to the Master to be based on good sense and entitled to at least some measure of persuasive force upon the question under immediate consideration, that is to say, whether it is better to continue the fight over everything at arm's length, or cut the knot of difficulty with the blade of compromise. The memorandum of conversations between Mr. Shinners and counsel for Trustee is also illuminating as to the point of view and the approach of the respective parties to the question of adjudgment of their differences.

The Master, during his youth in Arkansas, many times heard the homely story of the fellow who spread his hoecake out so thin he couldn't turn it over, and lost the whole thing. If this proposed settlement be rejected, a very similar result might happen to one or the other of the parties to this controversy. The Trustee is not dealing with his own individual affairs. He is handling the rights and properties of *cestuis que trustent*. Personally, he might prefer to risk all the chips on a single draw, but it would seem that common sense and common justice demand a somewhat different course when other people's money is involved.

A compromise has been defined as an agreement between two or more parties, who for preventing, or putting an end to, a lawsuit, adjust their differences by a mutual consent in the manner which they agree on, which every one of them prefers to the hope of gaining, balanced by the danger of losing. It is of the very essence of a compromise that there be a mutual concession or yielding of opposing claims. Further-

more, compromises are favored in both law and equity. "Agree with thine adversary quickly" has not only the sanction of scriptural authority, but the principle of an adjustment by mutual concession, and so speedily terminating vexatious litigation, has met the approval of the best legal minds. Finally, if the Debtor Corporation and Standard Gas and Electric Company are, in fact and in law, separate entities, it would appear that in the course of their mutual transactions, even if the latter got somewhat the best of it, nevertheless the former did obtain at least some benefit from the connection. As the Master views the situation, the acceptance and approval by the court of the compromise submitted will accomplish the following results:

1. Remove a very serious bar to the reorganization of Debtor Corporation, and doubtless appreciably shorten the length of time required for its accomplishment.

2. It will restore to Debtor Corporation all the moneys, rights and properties which it claims have been taken from it in the course of dealing which has resulted in the present controversy.

3. Unless the corporate walls separating Standard Gas and Electric Company from Debtor Corporation be utterly thrown down, Debtor Corporation be finally adjudged but a department of Standard Gas and Electric Company, the proposed compromise appears to be equitable from the standpoint of stockholders and creditors of Debtor Corporation, in that it only returns to Standard Gas and Electric Company the unpaid balance which upon accounting would probably be recovered by it, with a low rate of interest, and purged of any excessive or usurious charge; also, with about one-third of the amount agreed upon in settlement subordinated to the claims of all other creditors of Debtor Corporation.

In spite of the insistence of the two Objectors that the compromise offered by the Standard, acceptance and approval of which is recommended by the Trustee, is unjustified and should be rejected, the Master, after long and studious consideration of the record, has reached an exactly opposite conclusion, and accordingly finds and recommends as follows:

## Findings.

The Master finds that the offer of Standard Gas and Electric Company of March 8, 1935, acceptance and approval of

which is recommended by the Trustee, is for the best interest of the estate of Debtor Corporation and of all persons interested therein.

Recommendations.

The Master recommends that this Honorable Court enter an order approving and accepting the proposed offer of compromise, and make and enter a decree settling the respective rights of Claimant, Standard Gas and Electric Company, and Debtor Corporation, in accordance therewith.

Respectfully submitted,

PRESTON C. WEST, Special Master.

Endorsed: Filed May 11, 1935, H. P. Warfield, Clerk U. S. District Court.

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Master's Exhibit "Four."

1921

| Deep Rock Directors | Standard Directors | Engineering and Management Corporation Directors | Byllesby and Company Directors |
|---|---|---|---|
| H. M. Byllesby | H. M. Byllesby | H. M. Byllesby | H. M. Byllesby |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| A. S. Huey | A. S. Huey | A. S. Huey | A. S. Huey |
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| Otto E. Osthoff | Otto E. Osthoff | Otto E. Osthoff | Otto E. Osthoff |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |
| G. N. Moore | ..... | ..... | ..... |
| W. R. Thompson | ..... | ..... | ..... |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | ..... |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| F. W. Stehr | F. W. Stehr | ..... | ..... |
| R. J. Huey | ..... | ..... | ..... |
| * * * * * | * * * * | * * * * * | |

1922

| | | | |
|---|---|---|---|
| G. N. Moore | ..... | ..... | ..... |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| A. S. Huey | A. S. Huey | A. S. Huey | A. S. Huey |
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| Otto E. Osthoff | Otto E. Osthoff | Otto E. Osthoff | Otto E. Osthoff |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | ..... |
| F. W. Stehr | F. W. Stehr | ..... | ..... |
| H. M. Byllesby | H. M. Byllesby | H. M. Byllesby | H. M. Byllesby |
| Richard K. Huey | ..... | ..... | ..... |
| * * * * * | * * * * | * * * * * | |

1923

| Deep Rock Directors | Standard Directors | Engineering and Management Corporation Directors | Byllesby and Company Directors |
|---|---|---|---|
| H. M. Byllesby | H. M. Byllesby | H. M. Byllesby | H. M. Byllesby |
| G. N. Moore | ..... | ..... | ..... |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| A. S. Huey | A. S. Huey | A. S. Huey | A. S. Huey |
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| W. R. Francisco | ..... | ..... | ..... |
| F. W. Stehr | F. W. Stehr | ..... | ..... |
| J. W. Briggs | J. W. Briggs | ..... | ..... |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | ..... |
| R. K. Huey | ..... | ..... | ..... |
| W. H. Cannady | ..... | ..... | ..... |
| A. S. Cummins | A. S. Cummins | A. S. Cummins | A. S. Cummins |

* * * * * * * * * *

1924

| | | | |
|---|---|---|---|
| H. M. Byllesby | ..... | ..... | H. M. Byllesby |
| G. N. Moore | ..... | ..... | ..... |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| A. S. Huey | ..... | A. S. Huey | A. S. Huey |
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| W. R. Francisco | ..... | ..... | ..... |
| F. W. Stehr | F. W. Stehr | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | ..... |
| A. S. Cummins | A. S. Cummins | A. S. Cummins | A. S. Cummins |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | ..... |
| R. K. Huey | ..... | ..... | ..... |
| W. H. Cannady | ..... | ..... | ..... |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |

* * * * * * * * * *

1925

| | | | |
|---|---|---|---|
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| J. L. Gray | ..... | ..... | ..... |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |
| A. S. Cummins | A. S. Cummins | A. S. Cummins | A. S. Cummins |
| W. R. Francisco | ..... | ..... | ..... |
| G. N. Moore | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| F. W. Stehr | F. W. Stehr | ..... | ..... |
| J. H. Roemer | J. H. Roemer | ..... | J. H. Roemer |
| R. G. Hunt | R. G. Hunt | R. G. Hunt | R. G. Hunt |
| O. G. Corns | O. G. Corns | ..... | ..... |

* * * * * * * * * *

1926

| Deep Rock Directors | Standard Directors | Engineering and Management Corporation Directors | Byllesby and Company Directors |
|---|---|---|---|
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| J. L. Gray | ..... | ..... | ..... |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |
| A. S. Cummins | A. S. Cummins | A. S. Cummins | A. S. Cummins |
| W. R. Francisco | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| F. W. Stehr | F. W. Stehr | ..... | ..... |
| L. B. Riddle | ..... | ..... | ..... |
| R. G. Hunt | R. G. Hunt | R. G. Hunt | R. G. Hunt |
| O. G. Corns | O. G. Corns | ..... | ..... |
| J. H. Roemer | J. H. Roemer | ..... | J. H. Roemer |

1927

| | | | |
|---|---|---|---|
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| J. L. Gray | ..... | ..... | ..... |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |
| A. S. Cummins | A. S. Cummins | A. S. Cummins | A. S. Cummins |
| W. R. Francisco | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| F. W. Stehr | F. W. Stehr | ..... | ..... |
| L. B. Riddle | ..... | ..... | ..... |
| R. G. Hunt | R. G. Hunt | R. G. Hunt | R. G. Hunt |
| O. G. Corns | O. G. Corns | ..... | ..... |
| J. H. Roemer | J. H. Roemer | ..... | J. H. Roemer |

1928

| | | | |
|---|---|---|---|
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| J. L. Gray | J. L. Gray | ..... | ..... |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| H. C. Cummins | H. C. Cummins | H. C Cummins | H. C. Cummins |
| A. S. Cummins | A. S. Cummins | A. S. Cummins | A. S. Cummins |
| W. R. Francisco | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| F. W. Stehr | F. W. Stehr | ..... | ..... |
| L. B. Riddle | ..... | ..... | ..... |
| R. G. Hunt | R. G. Hunt | R. G. Hunt | R. G. Hunt |
| O. G. Corns | O. G. Corns | ..... | ..... |
| J. H. Roemer | J. H. Roemer | ..... | J. H. Roemer |

1929

| Deep Rock Directors | Standard Directors | Engineering and Management Corporation Directors | Byllesby and Company Directors |
|---|---|---|---|
| H. C. Cummins | ..... | H. C. Cummins | H. C. Cummins |
| J. L. Gray | ..... | ..... | ..... |
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| W. R. Francisco | ..... | ..... | ..... |
| L. B. Riddle | ..... | ..... | ..... |
| B. L. Majewski | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| W. E. Moody | ..... | ..... | ..... |
| F. W. Stehr | ..... | ..... | ..... |
| R. G. Hunt | ..... | R. G. Hunt | R. G. Hunt |
| O. G. Corns | ..... | ..... | ..... |

1930

| | | | |
|---|---|---|---|
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |
| J. L. Gray | ..... | ..... | ..... |
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| W. R. Francisco | ..... | ..... | ..... |
| L. B. Riddle | ..... | ..... | ..... |
| B. L. Majewski | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| W. E. Moody | ..... | ..... | ..... |
| F. W. Stehr | ..... | ..... | ..... |
| R. G. Hunt | ..... | R. G. Hunt | R. G. Hunt |
| O. G. Corns | ..... | ..... | O. G. Corns |

1931

| | | | |
|---|---|---|---|
| H. C. Cummins | H. C. Cummins | H. C. Cummins | H. C. Cummins |
| J. L. Gray | ..... | ..... | ..... |
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| W. R. Francisco | ..... | ..... | ..... |
| L. B. Riddle | ..... | ..... | ..... |
| B. L. Majewski | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| W. E. Moody | ..... | ..... | ..... |
| F. W. Stehr | ..... | ..... | ..... |
| R. G. Hunt | ..... | R. G. Hunt | R. G. Hunt |
| O. G. Corns | ..... | ..... | O. G. Corns |

1932

| Deep Rock Directors | Standard Directors | Engineering and Management Corporation Directors | Byllesby and Company Directors |
|---|---|---|---|
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| J. L. Gray | ..... | ..... | ..... |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | ..... |
| R. F. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| W. R. Francisco | ..... | ..... | ..... |
| L. B. Riddle | ..... | ..... | ..... |
| B. L. Majewski | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| W. E. Moody | ..... | ..... | ..... |

1933

| | | | |
|---|---|---|---|
| J. J. O'Brien | J. J. O'Brien | J. J. O'Brien | J. J. O'Brien |
| J. L. Gray | ..... | ..... | ..... |
| H. C. Cummins | H. C. Cummins | H. C. Cummins | ..... |
| R. J. Graf | R. J. Graf | R. J. Graf | R. J. Graf |
| W. R. Francisco | ..... | ..... | ..... |
| L. B. Riddle | ..... | ..... | ..... |
| B. L. Majewski | ..... | ..... | ..... |
| J. H. Briggs | J. H. Briggs | J. H. Briggs | J. H. Briggs |
| M. A. Morrison | M. A. Morrison | M. A. Morrison | M. A. Morrison |
| B. W. Lynch | B. W. Lynch | B. W. Lynch | B. W. Lynch |
| R. K. Huey | ..... | ..... | ..... |
| W. E. Moody | ..... | ..... | ..... |

[Clerk's Note:—The following referred to exhibits are omitted here pursuant to praecipe.]

Master's Exhibit Number One.

(This Exhibit is the statement of the Special Master as to the mailing of notices to creditors of the hearing on claims pursuant to the Order of Reference entered on March 8, 1935, and is covered in this Record by Section # 3 of the Stipulation of counsel on the Pleadings.)

Exhibit A to Master's Exhibit One.

(This Exhibit is a copy of the notice to creditors by the Special Master of the hearing on claims published in the Tulsa World and is covered in this Record by Section # 3 of the Stipulation of counsel on the Pleadings.)

Exhibit B to Master's Exhibit One.

(This Exhibit consists of lists of Unpaid Claims filed by the Trustee and classified in six groups as follows: (1) claims

recorded in Corporation's accounts allowed by Trustee; (2) claims recorded in Corporation's accounts disallowed by Trustee; (3) claims not recorded in Corporation's accounts allowed by Trustee; (4) claims not recorded in Corporation accounts disallowed by Trustee; (5) claims recorded in Corporation's accounts on which consideration was continued; (6) claims not recorded in Corporation's accounts on which consideration was continued. This Exhibit also contains a List of Addressees Additional to Hectographed List.)

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Master's Exhibit Number Two.

(This Exhibit is a Proof of Publication in the Chicago Tribune of notice to creditors of the hearing on claims, on March 25, 1935, and is covered in this Record by Section # 3 of the Stipulation of counsel on the Pleadings.)

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Master's Exhibit Number Three.

(This Exhibit is a Proof of Publication in the Tulsa World of notice to creditors of the hearing on claims, on March 25, 1935, and is covered in this Record by Section # 3 of the Stipulation of counsel on the Pleadings.)

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Master's Exhibit Number Five.

(This Exhibit is a Memorandum of Conversation between Jack Shinners, Geo. S. Ramsey and others on February 21, 1935, and appears in this Record as Exhibit B to "Trustee's Reply to Petition of John M. and William H. Taylor, Preferred Stockholders, for Order Directing the Trustee to Amend his Amended Objections to the Standard's Claim," filed June 4, 1935.)

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Order No. 80.

In Re Hearing Proposed Compromise of Claim of Standard Gas and Electric Company.

Now on this 13th day of May, 1935, same being a regular day of a term of this court at Bartlesville, Oklahoma,

It Is Hereby Ordered that the Special Master's Report recommending the compromise and settlement of the claim

of the Standard Gas and Electric Company against the Deep Rock Oil Corporation be, and is hereby set for hearing at 9:30 A. M. on June 3rd, 1935, in the District Court Room of the United States Court at Tulsa, Oklahoma, and the Trustee in Bankruptcy is hereby ordered to have printed and mailed, fifteen (15) days before June 3, 1935, to the last known address of each of the known holders of the preferred stock of the Deep Rock Oil Corporation a printed notice stating therein the time and place of hearing the report of the Special Master recommending the compromise and settlement of the claim of the Standard Gas and Electric Company. The Trustee having submitted to the court a proposed form of notice to said stockholders, a copy of which is hereto attached, and the same having been examined by the court, it is hereby approved as the proper form of notice to be mailed by the Trustee to said stockholders, as herein ordered.

Made and ordered entered on this 13th day of May, 1935.

F. E. KENNAMER, Judge.

Endorsed: Filed May 16, 1935, H. P. Warfield, Clerk U. S. District Court.

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Notice.

To the Preferred Stockholders of Deep Rock Oil Corporation:

Take Notice that on June 3rd, 1935, at 9:30 A. M., in the United States Court Room in the Post Office Building in Tulsa, Oklahoma, there will come on for hearing the Report of the Special Master in the above styled cause recommending the approval of the proposed compromise of the claim of Standard Gas and Electric Company against Deep Rock Oil Corporation by reducing the claim from $9,342,642.37 plus interest from February 28, 1933, to (a) $2,376,076.31 with interest at the annual rate of 5 per cent from the dates of advances to February 28, 1933, being $407,886.18, plus five per cent annual interest on $2,376,076.31 from February 28, 1933, to date of entry of judgment therefor, all to be allowed as a Deep Rock indebtedness on a parity with the other creditors, and (b) in addition allowing Standard Gas and Electric Company the sum of $1,585,485.18 with 5 per cent annual interest thereon from August 5, 1933, to date of entry of judgment approving compromise, all of said principal sum of $1,585,-

485.18, with interest, shall be subordinated to the claims of all other creditors of Deep Rock Oil Corporation including holders of Deep Rock's $10,000,000.00 March 1, 1928, note issue. Under the proposed compromise Standard is to (1) convey to Deep Rock Oil Corporation all the stock of the Deep Rock Oil and Refining Company, consisting of 9,000 shares; (2) surrender the said Refining Company's note dated January 1, 1931, in the principal sum of $1,894,592.11 and all other claims of Standard against said Refining Company, and (3) cause to be delivered to Deep Rock Oil Corporation a deed from R. J. Graf, Trustee, conveying to it all land and improvements thereon covered by deed from Deep Rock Oil Corporation to R. J. Graf, Trustee, dated December 6, 1922, upon which certain cracking stills, etc., are located. The proposed compromise has been recommended by the Trustee and the Special Master, Preston C. West, and any and all stockholders wishing to object to its approval by the court should file their objections and appear in person or by counsel before the United States District Court on June 3rd, 1935, at 9:30 A. M., in the Federal Court Room in Tulsa, Oklahoma, and present them to the court.

This notice is given by order of the court.

H. N. GREIS,
Trustee in Bankruptcy under Section 77b, National Bankruptcy Act.

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Order No. 81.

In Re Hearing Proposed Compromise of Claim of Standard Gas and Electric Company.

Now on this 16th day of May, 1935, same being a regular day of a term of this court at Bartlesville, Oklahoma,

It Is Hereby Ordered that the Trustee in Bankruptcy, H. N. Greis, cause notice to be mailed to the known address of each of the common stockholders of the Deep Rock Oil Corporation ten (10) days before June 3rd, 1935, and to publish twice in the Tulsa World, Tulsa, Oklahoma, and the Chicago Tribune, Chicago, Illinois, the notice addressed to the stockholders and creditors of the Deep Rock Oil Corporation, notifying them that the proposed compromise of the claim of the Standard Gas and Electric Company is set for hearing

before this court at Tulsa, Oklahoma, at 9:30 A. M. on June 3, 1935. A copy of the proposed notice is hereto attached, examined by the court, and approved.

Made and ordered entered this 16th day of May, 1935.

F. E. KENNAMER, Judge.

Endorsed: Filed May 17, 1935, H. P. Warfield, Clerk U. S. District Court.

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Notice.

To the Stockholders and Creditors of Deep Rock Oil Corporation:

Take Notice that on June 3rd, 1935, at 9:30 A. M., in the United States Court Room in the Post Office Building in Tulsa, Oklahoma, there will come on for hearing the Report of the Special Master in the above styled cause recommending the approval of the proposed compromise of the claim of Standard Gas and Electric Company against Deep Rock Oil Corporation by reducing the claim from $9,342,642.37 plus interest from February 28, 1933, to (a) $2,376,076.31 with interest at the annual rate of 5 per cent from the dates of advances to February 28, 1933, being $407,886.18, plus 5 per cent annual interest on $2,376,076.31 from February 28, 1933, to date of entry of judgment therefore, all to be allowed as a Deep Rock indebtedness on a parity with the other creditors, and (b) in addition allowing Standard Gas and Electric Company the sum of $1,585,485.18 with 5 per cent annual interest thereon from August 5, 1933, to date of entry of judgment approving compromise, all of said principal sum of $1,585,485.18, with interest, shall be subordinated to the claims of all other creditors of Deep Rock Oil Corporation including holders of Deep Rock's $10,000,000.00 March 1, 1928, note issue. Under the proposed compromise Standard is to (1) convey to Deep Rock Oil Corporation all the stock of the Deep Rock Oil and Refining Company, consisting of 9,000 shares; (2) surrender the said Refining Company's note dated January 1, 1931, in the principal sum of $1,894,592.11 and all other claims of Standard against said Refining Company, and (3) cause to be delivered to Deep Rock Oil Corporation a deed from R. J. Graf, Trustee, conveying to it all land and improvements thereon covered by deed from Deep Rock Oil Corpora-

tion to R. J. Graf, Trustee, dated December 6, 1922, upon which certain cracking stills, etc., are located. The proposed compromise has been recommended by the Trustee and the Special Master, Preston C. West, and any and all stockholders and creditors wishing to object to its approval by the court should file their objections and appear in person or by counsel before the United States District Court on June 3rd, 1935, at 9:30 A. M., in the Federal Court Room in Tulsa, Oklahoma, and show cause why the proposed compromise should not be allowed.

This notice is given by order of the court.

[illegible]
Trustee in Bankruptcy under Section 77b, National Bankruptcy Act.

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Exceptions to Report of Special Master, Preston C. West on Compromise of Standard Gas and Electric Company Claim.

To the District Court of the United States, for the Northern District of Oklahoma:

Now come John [illegible] and William H. Taylor, Interveners, being holders of Preferred Stock of Debtor Corporation, in behalf of themselves, and all others similiarly situated, and herein file their exceptions to the Report of Special Master, Preston C. West, recommending acceptance and approval of the proposed offer of compromise between the claimant, Standard Gas & Electric Company, and Debtor Corporation, said report having been filed on May 11, 1935, and for their cause of exception, interveners show:

One. That the Master has in said report stated and certified that the compromise proposal

> "Is for the best interest of the estate of Debtor Corporation and of all persons interested therein,"

whereas, the Master ought to have found that the acceptance of said compromise offer is against the best interests of the estate of Debtor Corporation and of all persons interested therein, excepting that the only one to be benefited thereby is Standard Gas & Electric Company.

Two. That the Master stated in his report that the acceptance of the compromise offer will

> "remove a very serious bar to the reorganization of Debtor Corporation, and doubtless appreciably shorten the length of time required for its accomplishment",

whereas, the Master ought to have found that acceptance of this compromise proposal is likely greatly to extend the time required for reorganization of Debtor Corporation by leaving open the possibility of a rejection of the proposed compromise, by an Appellate Court, which would then require adjudication on the merits of the claim and counter-claim, with the resultant loss of a considerable period of time.

Three. That the Master has, in said report, stated that acceptance of said compromise proposal

> "would restore to Debtor Corporation all the monies, rights and properties which it claims have been taken from it in the course of dealing which has resulted in the present controversy,"

whereas, the Master ought to have found that said compromise proposal fails to restore to said Debtor Corporation and to the persons in interest therein the monies, rights and properties which said Standard Gas & Electric Company has wrongfully taken from Debtor Corporation, and for which said Standard Gas & Electric Company is liable. The said conclusion of the Master is further not supported by the facts in the case or by any specific findings of fact or law on the part of the Special Master.

Four. That the Master has, in his report, stated and certified that

> "Unless the corporate walls separating Standard Gas and Electric Company from Debtor Corporation be utterly thrown down, Debtor Corporation be finally adjudged but a department of Standard Gas and Electric Company, the proposed compromise appears to be equitable from the standpoint of stockholders and creditors of Debtor Corporation, in that it only returns to Standard Gas and Electric Company the unpaid balance which upon accounting would probably be recovered by it, with a low rate of interest, and purged of an excessive or usurious charge; also, with about one-third of the amount agreed upon in settlement subordinated to the claims of all other creditors of Debtor Corporation,"

whereas, the Master ought to have found that the Debtor Corporation was purely an instrumentality or adjunct of Standard Gas and Electric Company, and that the Standard Gas and Electric Company should be adjudged liable for the full amount of the debts of Debtor Corporation, and for the illegal withdrawals of its capital investment in said Debtor Corporation, and further, that there was no warrant in any event for recovery by Standard Gas and Electric Company of any sum in an amount approximating that proposed in said compromise offer.

Five. That the Master failed to make any specific findings of fact and law on the merits of the controversy between the Standard Gas and Electric Company and the Debtor Corporation.

Six. That the Master failed to pass upon or hold with Interveners on any of the grounds stated in the objections heretofore filed by these Interveners, and which were urged before said Special Master at the time of said hearing by objections set forth in writing under instrument dated March 21, 1925, and as further described in the brief in support of said objections filed before said Special Master at the time of hearing, said objections and brief being hereby incorporated herein as fully as if set forth in full herein.

Seven. That the Master in said report has given weight to the testimony of Mr. John J. Shinners as Chairman of the Reorganization Committee favoring acceptance of the compromise proposal, whereas, said Special Master ought to have found that the testimony of Mr. Shinners and the position of said Reorganization Committee is entitled to no weight whatsoever, in view of the admitted creation of said Committee by H. M. Byllesby & Company, of which Mr. Shinners is a Vice-President and which Company is the top Holding Company in control of Standard Gas and Electric Company.

Respectfully submitted,

SEMPLINER, DEWEY, STANTON & HONIGMAN, and
MILSTEN and MILSTEN,
By JASON L. HONIGMAN,
Attorneys for Interveners.

Endorsed: Filed May 29, 1935. H. P. Warfield, Clerk, U. S. District Court.

Petition to Direct Trustee to Amend Pleadings and to Have Standard Claim Referred Back for Findings of Fact and Law.

To the District Court for the Northern District of Oklahoma:

Now come John M. Taylor and William H. Taylor, Interveners herein, and show unto this Honorable Court, as follows:

1. That, in connection with the claim of Standard Gas and Electric Company, Trustee herein has filed objections. That, although Trustee's objections make as a defense to this claim, the contention that Deep Rock was merely the *alter ego* or instrumentality of Standard, said objections do not seek the affirmative relief which would follow as a matter of law from such holding.

2. That Interveners herein have heretofore filed objections to the claim of said Standard Gas and Electric Company and to the compromise of said claim, and that, in said objections, it is set forth that, by virtue of the relationship whereby Deep Rock was under the absolute control and domination of Standard, without exercise of any independent will of its own, the said Debtor Corporation was the instrumentality or *alter ego* of said Standard. That, by virtue thereof, any advancements of funds from said Standard to said Deep Rock must be deemed in the nature of capital investments, which, when withdrawn, constitute illegal withdrawals of capital as against the rights of Creditors and Preferred Stockholders. That the claimed account between Standard and Deep Rock shows that a total of $43,187,066.97 was withdrawn by Standard from time to time, of which $18,445,733.33 were credits by virtue of stock issued to Standard which thus properly recognize the advancements as capital investments and that the remaining balance of approximately $25,000,000.00 constituted funds which were withdrawn, presumably, in repayment for debts to Standard but which, in fact, should be deemed withdrawals of capital investments by Standard, contrary to the rights of Creditors and Preferred Stockholders of Debtor Corporation.

3. That, for the full protection of the Creditors and Preferred Stockholders of the Debtor Corporation, the pleadings herein should be amended by the Trustee in such manner as will enable a determination on whether or not said Standard is liable to the Debtor Corporation, over and above any in-

debtedness to it in the sum of approximately $25,000,000.00 for illegal withdrawals of capital investments.

4. That, in the objectitons of the Trustee to said Standard claim, it is set forth that said Deep Rock is the *alter ego* or instrumentality of Standard. That said contention in behalf of said Trustee is made only for the purpose of defeating the claim made by said Standard Gas and Electric Company. That the said contention, if true, would serve as a matter of law, to make said Standard liable for all of the debts of the Debtor Corporation. That, for the full protection of the Creditors and Preferred Stockholders of Debtor Corporation, the pleadings of the said Trustee should be amended to permit a determination on the issue of whether Standard Gas and Electric Company is liable for the debts of the Debtor Corporation, which would be in a sum in excess of $10,000,000.00, in addition to a determination that the Debtor Corporation is not indebted to Standard in any amount whatsoever.

5. That, in the aforesaid objections of Interveners, separate items totaling $18,883,031.39 appearing in the account of Standard Gas and Electric Company against Debtor Corporation are charged to be illegal, unwarranted and fraudulent charges against the Debtor Corporation. That only a portion of said items are included in the objections of the Trustee. That, for the full protection of the Creditors and Preferred Stockholders of the Debtor Corporation, it is necessary that the pleadings of said Trustee be amended to include a claim of illegality of said specific items set forth in said objections of Interveners which should seek to hold Standard liable to Debtor Corporation, irrespective of the application of the Instrumentality Rule, for the difference between the amount claimed by said Standard and the amount deductible as improper, illegal and unwarranted charges, leaving a credit balance owing from Standard to Debtor Corporation in the sum of $9,540,389.02, with interest at legal rates to be calculated thereon.

6. That, in said objections of Trustee to Standard claim, it is set forth that that certain lease, dated October 1, 1925, and its renewal, dated October 1, 1930, and also the creation of said Deep Rock Oil & Refining Company and the transfer of the Cracking Plant at Cushing, Oklahoma, in the name of R.

J. Graf, as Trustee, constituted sham and fraudulent transactions which were illegal and unwarranted diversion of funds and assets of the Debtor Corporation.

7. That, for the purpose of finally adjudicating the subject matter of said objections, it is necessary, in the full protection of the interests of the Debtor Corporation, to join said Deep Rock Oil & Refining Company and said R. J. Graf, as parties to these proceedings, in order that a determination—that all of such assets are assets of Debtor Corporation shall be binding upon them. That the Trustee should be asked to amend his pleadings in such manner as will bring said parties into these proceedings, and will present the issue in such manner as will constitute a final determination in this connection.

8. That the said Trustee be required to amend his pleadings to include the allegations and charges set forth in the aforesaid objections of Interveners heretofore filed herein, and also, as more fully described in the briefs filed in behalf of Interveners in support of said objections, reference to which objections and briefs is herewith made as fully as if set forth in full herein.

9. That a determination on each of the issues upon which amendment is sought, as hereinbefore set forth, will require no additional proofs to the best of Interveners' knowledge and belief, and will serve to fairly present to this court the real issues and controversy under the facts already submitted in the record of these proceedings.

10. That, upon completion of said amendments, the subject matter of said controversy be referred back to the Special Master for findings of fact and law on the merits of the real controversy presented by the record of these proceedings.

Wherefore, Interveners pray:

1. That H. N. Greis, Trustee herein, be directed to amend his pleadings in opposition to Standard Gas in the manner and form as hereinbefore set forth.

2. That, upon completion of said amendments, the subject matter of this controversy be referred back to the Special Master for full findings of fact and law on the merits of the controversy herein.

And Interveners will ever pray.

JOHN M. TAYLOR and
WILLIAM H. TAYLOR,
By JOHN M. TAYLOR,
Interveners.

Sempliner, Dewey, Stanton & Honigman, and Milsten & Milsten, by J. L. Honigman, Attorneys for Interveners.

County of Wayne, ss.

On this 28th day of May, 1935, before me, a Notary Public in and for said County, personally appeared John M. Taylor, who being duly sworn, did say: that he has read the foregoing petition in behalf of himself and William H. Taylor, as Interveners; that the contents are true to the best of his knowledge, information and belief, and that he was duly authorized to sign said petition in behalf of William H. Taylor. Evelyn G. Smith, Notary Public, Wayne County, Michigan. My commission expires April 1, 1936.

Endorsed: Filed June 3, 1935. H. P. Warfield, Clerk, U. S. District Court.

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Petition for List of Creditors and Preferred Stockholders and to Set Aside Order Number Seventy-one.

To the United States District Court for the Northern District of Oklahoma:

Now come John M. Taylor and William H. Taylor, Interveners herein, and show unto this Honorable Court, as follows:

1. That your petitioners are holders of Preferred Stock of the Debtor Corporation, totaling five hundred and fifty shares. That your petitioners have heretofore, on April 8, 1935, served demand upon H. N. Greis, Trustee, for a list of the Preferred Stockholders and Noteholders of said Debtor Corporation.

2. That, without any notice or information to counsel for petitioners, a petition for instructions was filed by the Trustee herein and order number seventy-one was entered thereon on April 16, 1935. That said order number seventy-one places unfair and burdensome restrictions upon Interveners with reference to examination of lists of security-holders and sub-

mission to all parties of any proposed communication with security-holders, contrary to the provisions of Sec. 77(b) of the United States Bankruptcy Act. That all of the parties opposing your petitioners have ample and unrestricted access to the security holders of Debtor Corporation. That the said Standard Gas and Electric Company, through its control and management of Debtor Corporation, has full and complete knowledge as to the names of all Preferred Stockholders and all available lists of Noteholders of said Debtor Corporation. That H. M. Byllesby & Company was the top Holding Company controlling Standard Gas and Electric Company and has likewise full knowledge of the lists of Preferred Stockholders and Noteholders of the Debtor Corporation. That the said Reorganization Committee is operated at the office of H. M. Byllesby & Company and likewise has full knowledge of the lists of Preferred Stockholders and Noteholders of said Debtor Corporation. That, in addition, it also has full and complete knowledge of all persons who deposited their securities with said Committee.

3. That said Standard Gas and Electric Company, H. M. Byllesby & Company and the Reorganization Committee have formerly communicated with the Preferred Stockholders and Noteholders of said Debtor Corporation without any hampering or restrictions placed upon their communications or the availability to them of the information with reference to the lists of Stockholders and Noteholders.

4. That said order number seventy-one entered by this court on April 16, 1935, forces Interveners herein to submit to each of said parties and to this court any communication that they wish to make with Preferred Stockholders or Noteholders of the Debtor Corporation. That this restriction places Interveners at a distinct disadvantage in its attempt to inform Preferred Stockholders and Noteholders of the situation which it has found in connection with the operation of the Debtor Corporation and in connection with the control of the Committee by the same clique that controlled and ruined the Debtor Corporation.

5. That your Interveners respectfully show that in all fairness the list of Preferred Stockholders and Noteholders, showing whether they have deposited their securities with said Committee or not, should be on file in this proceeding and available for inspection by Interveners without any burden-

some limitations. That your Interveners should be just as free in their right to communicate with Preferred Stockholders and Noteholders of the Debtor Corporation as is the Standard Gas and Electric Company, H. M. Byllesby & Company or their subservient Reorganization Committee. That said order number seventy-one should be set aside or modified to provide that the said lists of the individual preferred stockholders and the individual noteholders should be filed by the Trustee, by said Reorganization Committee, by said Standard Gas and Electric Company and/or by the said H. M. Byllesby & Company, or by whichever of them has the requisite information, so as to make available to all persons in interest, including these Interveners without any restrictions, the names and addresses of all holders of the Preferred Stock of the Debtor Corporation, with indication as to whether or not they have deposited such securities with said Committee.

6. That, in the event this Honorable Court should reject the plea of your petitioners, in setting aside, or modifying said order number seventy-one as aforesaid, your petitioners herewith submit copy of proposed letter, attached hereto, as Exhibit A, and made a part hereof, as fully as if set forth in full herein. Your petitioners desire to forward a copy of such letter to each of the Preferred Stockholders of the Debtor Corporation and each of the holders of Notes of the Debtor Corporation irrespective of whether or not said Preferred Stockholders and Noteholders of said Debtor Corporation have deposited their securities with said Reorganization Committee.

7. That your petitioners believe that the statements made in said letter are warranted, and that said lists should be made available to your petitioners by whomsoever may have them.

8. That your petitioners believe that none of the investing public has made any investigation comparable to that made by your petitioners, and their counsel, as a means of determining the true merits of the controversy in connection with the Standard Gas and Electric Company's claim and liability in relation to the Debtor Corporation. That it is essential for the protection of other security-holders who have made no such investigation, that the results of your petitioners' investigation be disclosed to them.

9. That, until such time as the other Preferred Stockholders and Noteholders of the Debtor Corporation, have been in-

formed of the results of your petitioners' investigation, they are in no position to judge the merits of the compromise offer. That the Noteholders and Preferred Stockholders of the Debtor Corporation have been mislead by said Reorganization Committee by virtue of its statement contained on page six of the printed Reorganization Plan, part of which is quoted in said letter attached hereto as Exhibit A.

10. That no hearing should be had on said compromise proposal of said Debtor Corporation until ample opportunity has been given to your petitioners to forward to and communicate with all of the Preferred Stockholders and Noteholders of the Debtor Corporation substantially in accordance with said letter Exhibit A.

Wherefore, Petitioners Pray:

1. That said order number seventy-one be set aside or modified and that a new order or modified order be entered, requiring the Trustee herein, said Standard Gas and Electric Company, said H. M. Byllesby & Company and said Reorganization Committee to furnish to this court a complete list of all known Preferred Stockholders and Noteholders of the Debtor Corporation, showing names and addresses of each of said persons and whether or not they have deposited their securities with said Reorganization Committee.

2. That said lists be made available to your petitioners at once, and that, in the absence of modification of said order number seventy-one, this court approve the sending of the said letter Exhibit A attached to this petition.

3. That the hearing on the approval of the proposed compromise of the Standard Gas and Electric Company claim be adjourned for such reasonable period of time as will permit your petitioners to communicate with the Preferred Stockholders and Noteholders of the Debtor Corporation in accordance with said letter Exhibit A.

And petitioners will ever pray.

JOHN M. TAYLOR and
WILLIAM H. TAYLOR,
By JOHN M. TAYLOR,
Interveners—Petitioners.

Sempliner, Dewey, Stanton & Honigman, and Milsten and Milsten, by J. L. Honigman, Attorneys for Interveners.

State of Michigan, County of Wayne, ss.

On this 28th day of May, 1935, before me, a Notary Public in and for said County, personally appeared John M. Taylor, who, being duly sworn, did say: that he has read the foregoing petition in behalf of himself and William H. Taylor, as Interveners; that the contents are true to the best of his knowledge, information and belief, and that he was duly authorized to sign said petition in behalf of Wiliiam H. Taylor. Evelyn G. Smith, Notary Public, Wayne County, Michigan. My commission expires April 1, 1936.

Endorsed: Filed June 3, 1935. H. P. Warfield, Clerk, U. S. District Court.

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Exhibit A, Part 1.

To the Noteholders and Preferred Stockholders of Deep Rock Oil Corporation:

The undersigned, John M. Taylor and William H. Taylor, who are holders of Fifty-five Thousand Dollars ($55,000.00) of the Preferred Stock of Deep Rock Oil Corporation, have taken steps to oppose the proposed compromise of the Standard Gas and Electric Company claim. We believe this compromise proposal is highly detrimental to the interests of both Noteholders and Preferred Stockholders.

Enclosed herewith is a full statement of our position in this regard, which it is for your interest as a security holder of Deep Rock to read and understand. The situation is one which requires immediate action on the part of security-holders for the proper protection of their investment.

We urge you to read the enclosed letter, and to take action in accordance therewith. Should you determine to forward the Power of Attorney enclosed herewith, there will be no obligation or expense to you in connection therewith. This Power of Attorney is also subject to your cancellation at any time without any payment by you.

Very truly yours,

JOHN M. TAYLOR and
WILLIAM H. TAYLOR.
708 Provident Trust Building,
Philadelphia, Pa.

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Exhibit A, Part 2.

To the Noteholders and Holders of Preferred Stock of Deep Rock Oil Corporation:

We, the undersigned, John M. Taylor and William H. Taylor, are holders of Fifty-five Thousand Dollars ($55,000.00) of the Preferred Stock of Deep Rock Oil Corporation (Formerly known as Shaffer Oil & Refining Company). We bought this stock in 1928, at a cost to us of about $48,400/00. After receiving the proposed Plan of Reorganization of this Company, we hired counsel to investigate the situation. We found that receivership over the Company had been pending in the Federal District Court at Tulsa, Oklahoma, since March 1, 1933, and that a Trustee, in Bankruptcy, had been appointed in July, of 1934, who has since been operating this Company.

Under the plan as proposed by the Company, and joined in by the Reorganization Committee, the Noteholders, for their Ten Million Dollars ($10,000,000) of outstanding notes, would receive Ten Million Dollars ($10,000,000) of Income Debentures and Eighty Thousand (80,000) shares of Common Stock. The Standard Gas and Electric Company was to receive, for its claim of Nine Million, Three Hundred Forty-two Thousand, Six Hundred Forty-two and 37/100 Dollars ($9,342,642.37), a total of Twenty-five Thousand (25,000) shares of Seven Dollar Cumulative Preferred Stock and Three Hundred and Ninety Thousand (390,000) shares of Common Stock. The Preferred Stockholders, for their Fifty Thousand (50,000) shares, were to receive Fifty Thousand (50,000) shares of Common Stock. The Common Stockholders were presumably to get nothing.

The effect was thus to create a new corporation, having an income debenture issue of Ten Million Dollars ($10,000,000) which paid interest only when earned by the Company and to have outstanding the Twenty-five Thousand (25,000) shares of Seven Dollar Cumulative Preferred Stock and Five Hundred Twenty Thousand (520,000) shares of Common Stock. Of this capital structure, Standard Gas and Electric Company was to own all of the Preferred Stock and approximately Seventy-five per cent (75%) of the Common Stock. The Preferred Stockholders were to get, for their stock, under the terms of this proposed Plan, slightly less than ten per cent (10%) of the Common Stock of the New Company.

From the standpoint of either the Noteholders or Bond-Holders, apparently the primary justification for this Plan as urged by the Committee was—that the Standard Gas and Electric Company claim entitled them to treatment on a par with the Noteholders and ahead of the Preferred Stockholders. Thus, the Committee and the Debtor Corporation in effect argue that, by the terms of the Plan, the Noteholders are being benefited by subrogating Standard's indebtedness to the note issue and the Preferred Stockholders are given a slight equity, although, strictly speaking, their rights should be wiped out by virtue of the large indebtedness due to Standard which eats up the remaining equity in the Deep Rock assets. *The crux of the situation with reference to the fairness of this Plan of Reorganization thus revolves upon the question of the validity and extent of the Standard Gas claim.*

The claim of the Standard Gas and Electric Company is based upon an open account, showing transactions in credits and debits from 1919, to February 19, 1933, the date of receivership. A total of charges against Deep Rock is made by Standard in the sum of $52,329,709.34, with credits during the period of $43,157,066.97, leaving a net debit owing from Deep Rock to Standard in the amount of $9,342,642.37. As a matter of strict bookkeeping, the figures are apparently correct. An analysis of these figures, however, discloses an amazing story.

It is to be kept in mind that practically throughout the period in question, Standard Gas owned between 96 and 98 per cent of the Common Stock of this Corporation, and was in complete control of the selection of the Directors and Officers of Deep Rock. Apparently at no time did anyone interfere or attempt to interfere with the complete and absolute control by Standard of the affairs of Deep Rock. The largest portion of the credits and debits which make up this account were apparently nothing more than bookkeeping transactions entered under directions from the Auditing Department of Standard to its subordinates in the Auditing Department of Deep Rock.

Among the charges thus made by Standard against Deep Rock is an item of $4,525,000.00 as a rental charge for certain properties covered by a five-year lease dated October 1, 1925, between Deep Rock Oil & Refining Company and the Debtor Corporation, which was renewed on October 1, 1930, for an-

other five year term. The story of the creation of the Deep Rock Oil & Refining Company and the execution of this lease is the greatest piece of high finance chicanery that has ever come to our attention.

We cannot hope, within the confines of this letter, to tell you the details of this transaction. Suffice it to say, that it was, in essence, a transaction whereby some of Deep Rock's assets were appropriated to the Deep Rock Oil and Refining Corporation, which was nothing more than a dummy corporation set up by Standard. The original lease, though dated October 1, 1925, was enclosed in a letter dated March 19, 1926, from the general auditor of Standard to the auditor of Deep Rock directing its execution, without attempt at explanation. In their testimony, neither of these auditors knew why the lease was executed, who decided on its terms, of the reason for its being dated back. Not only was the creation of this lease wholly inexcusable but its terms were so onerous as to necessarily inflict upon Deep Rock tremendous losses.

For the two years since the inception of the receivership, Standard has failed to come into court to ask *tht* either the Receiver or the Trustee of Deep Rock should pay anything in the way of rent for the properties covered by this lease, although the Receiver and the Trustee were at all times in possession. It requires little acumen to discern that if Standard had any reasonable basis for claiming that its lease was valid, it would not be foregoing by this inaction something in the neighborhood of $1,300,000 in rentals which presumably should have accrued since the inception of the receivership and which would, if valid, be a prior charge upon the receivership assets. In the Record of proceedings in connection with the contest of the Standard Gas and Electric claim, which contains several thousands of pages of transcript and records, Standard makes hardly the semblance of a justification for its action in connection with the creation of this lease and the charges under it. Yet, it is by the creation of this lease that $4,525,000 of the Standard claim is dependent, not including heavy interest charges which were compounded daily at a *sever* per cent per annum rate and are in turn an additional part of the Standard claim.

Other items in the Standard account include a Supervision Fee of $1,219,034.83, charged by Byllesby Engineering and Management Corporation, a wholly owned subsidiary of

Standard. The record discloses that this Company was experienced only in the public utility field and knew nothing about the oil business; that the charges thus made were purely arbitrary ones imposed by Standard in its own uncontrolled discretion, without even the formality of a written agreement. No semblance of any service in that amount or in any appreciable fraction of it appears from the records in the case.

Other charges include dividends on preferred and common stock totaling approximately $3,500,000.00 at a time when the company's earnings do not appear to have warranted the payment of such dividends. The record discloses that, had Deep Rock used the basis for depreciation and depletion which it used in its income tax returns filed with the Federal Government, it would have disclosed losses for those years instead of profits.

Other charges in the Standard account are for interest and discount items charged by Standard to Deep Rock of approximately $6,489,000, of which one item is entitled "Interest On Open Account Balances" in the amount of $4,819,222.07. This item constitutes a *sever* per cent interest charge on the open account balance between Standard and Deep Rock and assumes that all of the charges against Deep Rock are justifiable and maintainable. In addition to charging seven per cent to its wholly controlled subsidiary, Standard adopts the rather neat practice of adding each day's interest charges to the open account balance, and thereafter, computing interest for the next day on that new balance. This daily compounding of interest continued throughout the period in question.

The total of the specific items which we have sought to question is $18,883,031.39, which, if disallowed from the Standard claim, would leave a credit balance which Standard should owe to Deep Rock in the amount of $9,540,389.02 over and above the complete disallowance of Standard's claim against Deep Rock. Nor does this last amount include any calculation of interest in favor of deep Rock, as against Standard.

*It is furthermore the claim of our counsel that, upon the theory that Deep Rock was a wholly dominated subsidiary of Standard, all of the advancements of Standard to Deep Rock should be deemed capital investments, and as such, should not be subject to withdrawal by Standard as against the Note-*

*holders and Preferred Stockholders of Deep Rock. Should this theory be upheld by the court, it would cause the disallowance in full of the Standard claim and leave Standard indebted to Deep Rock in an amount sufficient to pay in full all of the outstanding notes of Deep Rock, as well as the face value of all of the Preferred Stock.*

Shortly after our intervention in the proceedings, for the purpose of urging objections to the Standard claim, a settlement was proposed by Standard. The substance of this proposed settlement is that Standard is to have allowed to it a claim in an amount of approximately $3,000,000, that is to be on a par with the Noteholders and a claim of approximately $1,750,000 that is to be subordinated to the Noteholders, but is to be ahead of the rights of the Preferred Stockholders. Thus, the Standard claim, with complete interest adjustments will, on a compromise basis, amount to approximately $5,000,000.

At the time of the hearing before a Special Master on the question of the acceptance of this compromise proposal, we, through our counsel, were the only ones who appeared to object. The objections filed by our counsel and brief in support thereof cover approximately one hundred pages of typewriting on legal sized paper. The details of these objections and the brief in support thereof are available to any Noteholders or preferred Stockholders who desire to inspect them. We, or course, cannot hope to present that detail in this letter. It has been our position that an acceptance of this compromise is entirely unwarranted under the facts of this situation, that the management of Deep Rock by Standard has been grossly fraudulent and deterimental to the interests of the investing public; that the claim of Standard is not legally valid, and should be disallowed in its entirety; and that Standard should, on the top of that, be held liable in an amount sufficient to pay in full the investment of the Noteholders and Preferred Stockholders of Deep Rock. The Reorganization Committee, whose legal and moral duty it is to protect the security-holders of this Company, who deposited their securities with them, appeared at this hearing and urged the acceptance of this proposal.

The Committee's position with reference to the Standard claim is thus stated in the printed Plan, which it submitted, on page six thereof, as follows:

"The Standard claim has been allotted a position in the Reorganization based upon the theory that Standard can justify its claim in a substantial manner. Before reaching any conclusions with respect to the Standard claim, the Committee and its counsel made an independent detailed study and analysis of the transactions and accounts between the Corporation and Standard covering the period from the organization of the Corporation to the date of the receivership. Based on this investigation, the Committee believes that Standard could justify and support a claim for approximately $7,300,00."

Any Group or Committee that proposes to say that the Standard claim is a justifiable one in a sum such as $7,300,000, or in any other sum, for that matter, should certainly be free from any possible claim of bias or interest that is prejudicial to the security holders who are asked to rely upon them.

The fact is, that Mr. John J. Shinners, the Chairman of the Committee, is a Vice-President of H. M. Byllesby & Company. The H. M. Byllesby & Company is the top holding Company that controls Standard Gas and Electric Company by virtue of its right to elect a majority of the Standard directorate. The top officers of H. M. Byllesby & Company are also the top officers of Standard, and were, for many years also the top officers of Deep Rock. Mr. John J. O'Brien is the President of H. M. Byllesby & Company, Standard Gas & Electric Company, and also, Deep Rock Oil Corporation. Mr. Shinners testified that Messrs. O'Brien, R. J. Graf and B. W. Lynch were his superior officers in H. M. Byllesby & Company. These same men are the men whom the Record stamps as being chiefly responsible for all of the wrongdoing and mismanagement perpetrated by Standard upon Deep Rock.

Mr. Shinners testified, under examination by our counsel, that he commenced to form this Committee after consultation with another of his superior officers at H. M. Byllesby & Company. As to the other men whose names appear as members of this Committee, Mr. Shinners thus testified:

Q. When this Committee was formed, who designated the men who would be on the Committee?

A. I invited them.

Q. You personally did?

A. Yes, sir.

Thus, the entire Committee is a hand-picked Committee of the Standard-Byllesby group.

It is our view that the security-holders of this Company can expect no protection from this Committee. We believe the security-holders of this Company must protect themselves by independent action. For this purpose, we believe that it will be necessary to create an independent Committee to deal with the situation.

In our view, this compromise offer benefits no one but the Standard Gas and Electric Company. From the standpoint of the Noteholders under the Reorganization Plan, the entire Standard claim was subrogated to them, whereas, on the compromise settlement basis, approximately $3,000,000 of the Standard claim is placed on a par with them.

From the standpoint of the Preferred Stockholders, it must be borne in mind that the only figures as to the true value of the assets of Deep Rock Oil Corporation that have been submitted in these preceedings is the figure of $12,000,000. If that figure is correct, or substantially correct, the allowance of the Standard claim in practically any amount will serve to wipe out the interest of the Preferred Stockholders. The wiping out of the Common Stock is of no particular significance, in view of the fact that Standard, itself, owns approximately 98% of the Common Stock, and the wiping out of its Common Stock is purely theoretical as long as it gets all the remaining equity in the corporation's assets by means of the allowance of its claim.

*On the other hand, if the compromise is rejected, and if the Standard Gas is held liable in accordance with the claim of our counsel, it will have to pay over sufficient funds to permit full payment of the investments of both the Noteholders and Preferred Stockholders.*

In the meantime, ....., the .... day of ....., 1935, has been fixed for the date of hearing before the Federal District Court, at Tulsa, Oklahoma, on the question of the approval of the Special Master's recommendation for acceptance of the compromise proposal on the Standard Gas claim. We are enclosing herewith Power of Attorney, which will enable us to represent such security holders holding either notes or preferred stock as desire us to do so in opposition to the acceptance of the proposed compromise.

After we have learned the names and amount of security held by each of the security-holders, who desire to support our position in this matter, we shall take the necessary steps for the formation of an independent Committee. For the present, it is urged either that you obtain your own counsel in urging objection to the acceptance of the compromise of the Standard Gas claim, or that you execute the enclosed Power of Attorney, to permit us to urge such objection in your behalf. You will not become obligated for any individual expense by the execution of this Power of Attorney. Moreover, we desire the support of both Preferred Stockholders and Noteholders, irrespective of whether they have deposited their securities with the present Committee.

We cannot urge too strongly upon you—that this situation is one that requires your immediate action for the protection of your investment. We shall be glad to make available any further information which we may have, upon inquiry from any security holders.

Very truly yours,

JOHN M. TAYLOR and
WILLIAM H. TAYLOR.
708 Provident Trust Building,
Philadelphia, Pa.

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Exhibit A, Part 3.

Know All Men By These Presents: that the undersigned, a stockholder, noteholder, (cross out one) of Deep Rock Oil Corporation, a Delaware corporation, holding $..... of principal amount of Notes of said Corporation, or ..... Shares of Seven Dollar Cumulative Convertible Preferred Stock of said Corporation (cross out one), has made, constituted and appointed, and by these Presents, does make, constitute and appoint John M. Taylor and William H. Taylor, of Philadelphia, Pa., or either of them, the undersigned's true and lawful attorneys for the undersigned and in the undersigned's name, place, and stead, to

(1) Cause an intervening petition on behalf of the undersigned to be filed in the proceedings pending in the Federal District Court for the Northern District of Oklahoma, at Tulsa, Oklahoma, in the proceedings for the Reorganization of

said Corporation under the provisions of Section 77(b) of the United States Bankruptcy Act, being Bankruptcy cause number 2318, Consolidated, praying the same relief as is prayed by John M. Taylor and William H. Taylor in objections and exceptions which they have filed to the allowance of the claim of Standard Gas and Electric Company and/or the approval of the proposed compromise thereof.

(2) Take such action or such proceedings in said Reorganization proceedings as may be deemed necessary or expedient to enforce the liability of Standard Gas and Electric Company to the Debtor Corporation, and to nullify and rescind all matters incident to the formation of Deep Rock Oil & Refining Company and the purported leases therewith,

(3) Vote for or against any proposal or resolution which may be submitted with respect to any proposed reorganization submitted in said proceeding and to represent and act for the undersigned in said Bankruptcy proceedings, with respect to any and all matters and things that may come before the court in said proceedings,

hereby giving and granting unto the undersigned's said Attorneys, and each of them, full power and authority to delegate to Agents, or Attorneys-at-law, any of the power and authority granted herein, and further granting unto said undersigned's Attorneys full power and authority to do and perform each and every act, and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents and purposes as undersigned might or could do if personally present at the doing thereof, with full power of substitution and revocation.

The undersigned shall not be individually liable for any expense incurred by said Attorneys by virtue of the exercise of powers herein granted to said Attorneys.

In Witness Whereof, the undersigned has hereunto set the hand and seal of the undersigned, this .... day of June, 1935.

.....(Seal)

State of ....., County of ....., ss.

I, ....., a Notary Public in and for and residing in the said County, in the State aforesaid, do hereby certify that ..... personally known to me to be the same person

whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that ..h.. signed, sealed, and delivered the said instrument as ..... free and voluntary act, for the use and purposes therein set forth. Given under my hand and Notarial seal this .... day of June, 1935. ....., Notary Public. My commission expires .....

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Trustee's Reply to Petition of John M. and William H. Taylor, Preferred Stockholders for Order Directing the Trustee to Amend His Amended Objections to the Standard's Claim.

Comes now H. N. Greis, Trustee, by and through his counsel, and says that the introduction of evidence before the Special Master, Honorable Preston C. West, appointed by the court to hear the evidence in respect to the claim of the Standard Gas and Electric Company for $9,342,642.37 against the Deep Rock Oil Corporation, was completed on February 14, 1935, at Tulsa, Oklahoma; that Jack Shinners of Chicago, Illinois, a member of the Deep Rock Reorganization Committee, was in Tulsa on the 13th and 14th of February, 1935, and after the taking of testimony before the Special Master was closed approached the Trustee's counsel with a suggestion that the controversy between the Trustee and the Standard Gas and Electric Company over the Standard's aforesaid claim should be compromised or adjusted upon some basis; that some discussion of the basis for compromise was had between Mr. Shinners and the Trustee's counsel, which resulted in nothing even tentative; that thereupon, Geo. S. Ramsey, one of the Trustee's counsel, began the preparation of the Trustee's amended objections to the Standard's claim, having previously notified Standard's counsel that upon the introduction of all the evidence the Trustee would file amended objections to the Standard's claim; that in the Trustee's amended objections, as then prepared by Geo. S. Ramsey, the following averments and denials appeared, to-wit:

"Your trustee further avers that the Standard exercised its power of control over the Deep Rock so as to make the Deep Rock its agent and adjunct and one of its departments; that Standard so managed and conducted the business and corporate affairs of the Deep Rock as to reduce the Deep Rock to a mere nonentity; that the Standard has not used its owner-

ship of Deep Rock stock for the purpose of participating in Deep Rock's affairs in the normal and usual manner, but at all times has used its stock ownership so as to make the Deep Rock in fact a mere agency, instrumentality and department of the Standard; that Standard, since March, 1921, has used its power of control over the Deep Rock so as to deprive the Deep Rock of all real, independent existence, and your trustee avers that this court should disregard the separate corporate entity of the Deep Rock and the Standard and hold and adjudge the Deep Rock to be a department of the Standard, and that the amount of Standard's claim (whatever it may be) should be adjudged a part of Standard's investment in its own business with the same effect as if it had invested it in its own name, and that on account of the matters herein alleged the Standard's claim in its entirety should be disallowed and not permitted as an indebtedness to participate in the Deep Rock's assets, which should all be utilized for the payment of the Deep Rock's $10,000,000.00 March 1, 1928, notes and the claims of other creditors, and if the assets of the Deep Rock with those properties also standing in the name of the Refining Company (which belong to the Deep Rock) be insufficient to pay the $10,000,000.00 March 1, 1928 notes and the other Deep Rock creditors, then your trustee should have a judgment against the Standard for a sum of money sufficient to satisfy the claims of the $10,000,000.00 note holders and all other creditors of Deep Rock.

"Referring now to Standard's 'Proof of Debt' or claim in this case, the trustee says that he denies that there are no offsets or counterclaims against Standard's claim; denies that the Deep Rock was or is indebted to the Standard in the sum of $9.342,642.37 with interest, or any other sum; denies that Deep Rock has no just credits, deductions or offsets against Standard's claim; denies that there is justly due Standard the aforesaid sum of $9,342,642.37, with or without interest; denies that the Deep Rock requested Standard to buy for its account 11,000 shares of preferred stock of the Utilities and Industrial Corporation; denies that the interest upon Standard's open account balances is $4,819,222.07, or any other sum; denies that Deep Rock is liable to Standard for the sum of $1,555,981.00 as dividends on preferred stock; denies that Deep Rock is indebted to Standard for dividends on common stock in the sum of $1,946,672.00, or any other

sum; denies that Deep Rock is or ever was indebted to the Standard for the sum of $4,525,000.00 as Refining Company rentals, and denies it was obligated to pay Standard, or ever indebted to Standard, for any Refining Company rentals; denies that the officers and directors of the Deep Rock, in the early part of the year 1928, concluded or decided it was necessary to refinance the Deep Rock by the issuance of $10,000,000.00 par value six per cent Convertible Gold Notes under date of March 1, 1928, maturing March 1, 1933, but avers that the Standard caused the said $10,000,000.00 March 1, 1928 notes to be issued in the name of the Deep Rock as payor and sold to the public, and avers that the Standard received the proceeds of the said notes as well as the $7,500,000.00 par value two year notes executed on April 15, 1926, in the name of the Deep Rock as payor, maturing April 15, 1928; admits that Standard purchased from the Deep Rock 222,448 shares of its common stock in April, 1928, and avers that said purchase was at the price of $50.00 per share, fixed by Standard itself, with which Standard credited Deep Rock on its, Standard's open account; denies that the effect of said transaction was the voluntary cancellation by Standard of its indebtedness against Deep Rock to the amount of $20,222,400.00, or any other sum; admits that the Standard surrendered 90,000 shares of Deep Rock's preferred stock in exchange for Deep Rock's common stock, but denies that this was a voluntary donation by Standard to Deep Rock, but was in truth and in fact a transaction by the Standard with itself or with the Deep Rock as a department of the Standard.

"The trustee states that a Master has already been appointed and that the evidence has been taken in support of and in opposition to Standard's claim, and the trustee prays that the court find and adjudge that the Deep Rock was a department of the Standard, and that Standard's entire account be disallowed and the Standard adjudged liable for the payment of the $10,000,000.00 Deep Rock notes dated March 1, 1928, with interest; that if the court finds the Deep Rock was not a department of the Standard, then all those items in Standard's claim herein objected to by the trustee be disallowed and eliminated from Standard's claim and subordinated to the first and prior lien of the Deep Rock's other creditors on the Deep Rock's assets, and that the court find and adjudge that all the properties of the Refining Company are properties of the Deep Rock and liable for the Deep Rock's debts.

The trustee prays for all such other and further relief as he may be entitled to under the pleadings and under the evidence."

That on or about the 20th of February, 1935, the draft of the trustee's amended objections had been completed, containing the aforesaid averments and denials as shown by the discarded pages in the typewritten draft hereto attached and made a part hereof as Exhibits A, A-1, A-2, and A-3; that on or about February 20, 1935, Mr. Jack Shinners and Mr. George Knourek, the latter an employee of the Standard Gas and Electric Company, returned to Tulsa and renewed conversations with the Trustee's counsel as to the basis for a compromise of the Standard's claim; that the basis for compromise of the Standard's claim was reduced to writing on February 21, 1935, as shown by Exhibit B hereto attached; that the aforesaid basis for compromise was submitted by Mr. Shinners and Mr. Knourek to counsel for the Standard; that during these negotiations between Mr. Shinners and Mr. Knourek, on the one side, and the Trustee's counsel on the other, the Trustee's counsel delivered to the Standard's counsel a copy of the Trustee's amended objections to the Standard's claim, which copy contained the averments and denials set forth in Exhibits A, A-1, A-2 and A-3 hereto attached; that N. A. Gibson, counsel for the Standard, forwarded to the Standard's Chicago counsel a copy of the proposed amended objections of the Trustee and was directed by the Standard's Chicago officials or Chicago counsel to submit to the Trustee's counsel a proposed compromise agreement, shown by Exhibit C hereto attached, with the understanding that the Trustee's amended objections would be modified before filing so as to eliminate therefrom the allegation that Standard was liable for all the debts of the Deep Rock, including the $10,000,000.00 March 1, 1928 notes, and the prayer for judgment against the Standard for a sum sufficient to pay all the debts of the Deep Rock not satisfied out of the Deep Rock's assets and the assets of the Deep Rock Oil and Refining Company. The Trustee states that this modification of the proposed amended objections to the Standard's claim was demanded by the Standard for the reason that such a claim would impair the credit of the Standard and hinder it in refinancing its own affairs, then contemplated and in process by the Standard; the modification of the amended objections was agreed to as a part of the compromise agree-

ment with Standard, subject to the Trustee's right to again amend his objections and allege the Standard's liability for all the Deep Rock's debts and pray for judgment for the same in the event the court refused to approve the proposed compromise between the Standard and the Trustee. The Trustee states that in the event the compromise agreement is disapproved by the court he will ask leave of the court to amend his amended objections so as to restore thereto the allegations and prayer as set forth in Exhibits A, A-1, A-2, and A-3, hereto attached.

The Trustee denies that the Deep Rock Oil and Refining Company is an indispensable or even necessary party to this proceeding, and as authority therefor relies upon the decision of the United States Circuit Court of Appeals for the Eighth Circuit in The Texas Company v. Central Fuel Oil Company, 194 Fed. 1.

Respectfully submitted,

GEO. S. RAMSEY,
EDGAR A. de MEULES,
VILLARD MARTIN,
Counsel for H. N. Greis, Trustee.

State of Oklahoma, County of Tulsa, ss.

Personally appeared before me, Mary Louise Rabun, a Notary Public in and for the above-said State and County, Geo. S. Ramsey, with whom I am personally acquainted, and who makes oath that the statements contained in the above and foregoing reply of the Trustee are true.

Dated this 1st day of June, 1935.

GEO. S. RAMSEY.

Subscribed and sworn to before me this 1st day of June, 1935. Mary Louise Rabun, Notary Public. (Seal) My commission expires Aug. 5, 1937.

Endorsed: Filed June 4, 1935. H. P. Warfield, Clerk, U. S. District.

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Exhibit A.

(In this Exhibit A, where the words are in italics they have been inserted in the original draft, and where in brackets they have been omitted from the original draft.)

[ * * * ]

to believe or expect would or could be paid by Deep Rock within a year after the loans or advancements.

Your trustee further avers that the Standard exercised its power of control over the Deep Rock so as to make the Deep Rock its agent and adjunct and one of its departments; (That Standard so managed and conducted the business and corporate affairs of the Deep Rock as to reduce Deep Rock to a mere nonentity;) that the Standard has not used its ownership of Deep Rock stock for the purpose of participating in Deep Rock's affairs in the normal and usual manner, but at all times has used its stock ownership so as to make the Deep Rock in fact a mere agency, instrumentality and department of the Standard; that Standard, since March 1, 1921, has used its power of control over the Deep Rock so as to deprive Deep Rock of all real, independent existence, and your trustee avers that this court should disregard the separate corporate entity of the Deep Rock and the Standard and hold and adjudge the Deep Rock to be a department of the Standard; (and that the amount of Standard's claim (whatever it may be) should be adjudged a part of Standard's investment in its own business with the same effect as if it had invested it in its own name, and) that on account of the matters herein alleged the Standard's claim in its entirety should *not* be (dis) allowed (and not permitted as an indebtedness) to participate in the Deep Rock's assets, *on a parity with other creditors.* (which should all be utilized for the payment of the Deep Rock's $10,000,000.00 March 1, 1928 notes and the claims of other creditors, and if the assets of the Deep Rock with those properties also standing in the name of the Refining Company (which belong to Deep Rock) be insufficient to pay the $10,000,000.00 March 1, 1928 notes and the other Deep Rock creditors, then your trustee should have a judgment against the Standard for a sum of money sufficient to satisfy the claims of the $10,000,000.00 noteholders and all other creditors of Deep Rock.)

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Exhibit A-1.

(are leased by it under favorable terms. Practically all the tank cars are from 8,000 to 10,000 gallons capacity.")

Referring now to Standard's "Proof of Debt" of claim in this case, the trustee says that he denies that there are no

offsets or counterclaims against Standard's claim; denies that the Deep Rock was or is indebted to the Standard in the sum of $9,342,642.37 with interest, or any other sum; denies that Deep Rock has no just credits, deductions or offsets against Standard's claim; denies that there is justly due Standard the aforesaid sum of $9,342,642.37, with or without interest; denies that the Deep Rock requested Standard to buy for its account 11,000 shares of preferred stock of the Utilities and Industrial Corporation; denies that the interest upon Standard's open account balance is $4,819,222.07, or any other sum; denies that Deep Rock is liable to Standard for the sum of $1,555,981.00 as dividends on preferred stocks; denies that Deep Rock is indebted to Standard for dividends on common stock in the sum of $1,946,672.00, or any other sum; denies that Deep Rock is or ever was indebted to the Standard for the sum of $4,525,000.00 as Refining Company rentals, and denies it was obligated to pay Standard, or ever indebted to Standard, for any Refining Company rentals; (denies that the officers and directors of the Deep Rock, in the early part of the year 1928, concluded or decided it was necessary to refinance the Deep Rock by the issuance of $10,000,000.00 par value six per cent Convertible Gold Notes under date of March 1, 1928, maturing March 1, 1933, but avers that the Standard caused the said $10,000,000.00 March 1, 1928 notes to be issued in the name of the Deep Rock as payor and sold to the public, and avers that the Standard received the proceeds of

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Exhibit A-2.

the said notes as well as the $7,500,000.00 par value two year notes executed on April 15, 1926, in the name of the Deep Rock as payor, maturing April 15, 1928;) admits that Standard purchased from the Deep Rock 222,448 shares of its common stock in April, 1928, and avers that said purchase was at the price of $50.00 per share, fixed by Standard itself, with which Standard credited Deep Rock on its, Standard's open account; denies that the effect of said transaction was the voluntary cancellation by Standard of its indebtedness against Deep Rock to the amount of $20,222,400.00, or any other sum; admits that the Standard surrendered 90,000 shares of Deep Rock's preferred stock in exchange for Deep Rock's common stock, but denies that this was a voluntary donation by Standard to Deep Rock, (but was in truth and in fact a transaction

by the Standard with itself or with the Deep Rock as a department of the Standard.)

The trustee states that a Master has already been appointed and that the evidence has been taken in support of and in opposition to Standard's claim, and the trustee prays that the court find and adjudge that the Deep Rock was a department of the Standard, and that Standard's entire account be disallowed, (and the Standard adjudged liable for the payment of the $10,000,000.00 Deep Rock notes dated March 1, 1928, with interest;) that if the court finds the Deep Rock was not a department of the Standard, then all those items in Standard's claim herein objected to by the trustee be disallowed and eliminated from Standard's claim and subordinated to the first and prior lien of the Deep Rock's other creditors on the Deep Rock's assets, and that the court find and adjudge that all the properties of the Refining Company are properties of the Deep Rock and liable for the Deep Rock's debts.

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Exhibit A-3.

The trustee prays for all such other and further relief as he may be entitled to under the pleadings and under the evidence.

GEO. S. RAMSEY,
EDGAR A. de MEULES,
VILLARD MARTIN,
Counsel for Trustee.

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Exhibit B.

Memorandum of Conversations between Jack Shinners and George Knourek, on the One Hand, and Geo. S. Ramsey, Edgar A. de Meules and Villard Martin, representing the Trustee in the Above-styled cause, Pertaining to Tentative Basis for an Agreed Judgment on Standard's Claim.

The evidence shows that the original cost of the Bradstreet properties was $650,000.00, $500,000.00 of which was paid by Standard's checks, and $150,000.00 paid by Deep Rock's notes, whereupon Standard gave Deep Rock credit for $150,000.00 on its open account, and charged the $650,000.00, or

more accurately speaking, $649,999.00, to the account of J. C. Kennedy, Trustee, in whose name as trustee the Bradstreet properties were purchased.

The Deep Rock Oil Corporation (hereinafter referred to as Deep Rock) expended in the development and acquisition of additions to the Bradstreet properties the sum of $1,033,294.32 from the date of their acquisition in February, 1923, up to October 1, 1925, and also expended in the name of R. J. Graf, Trustee, in the construction and installation of Dubbs cracking stills and auxiliaries thereto the sum of $861,297.79 up to October 1, 1925, making $1,894,592.11. This makes a total ($649,999.00, $1,033,294.32, and $861,297.79) of $2,544,591.11.

It also appears from the evidence that the Standard charged the Deep Rock with the rentals accruing under the October 1, 1925 lease executed by the Deep Rock Oil and Refining Company as lessor and the Deep Rock as lessee, the total sum of $1,475,000.00 up to and including January 31, 1928, which was absorbed and paid by the issuance of Deep Rock common stock to Standard on April 12, 1928.

It also appears from the evidence that in December, 1925, Standard credited (as of October 1, 1925) Deep Rock with the cost of the original Bradstreet properties, $649,999.00, as the consideration for 8,325 shares of the Deep Rock Oil and Refining Company's stock standing in the name of M. A. Morrison, et al., and also at the same time credited Deep Rock on its open account with the sum of $1,894,592.11 (the cost of the cracking plant and development and leases in addition to the Bradstreet properties) and charged the $1,894,592.11 to the Deep Rock Oil and Refining Company on open account and thereafter and on January 1, 1931, received from the Deep Rock Oil and Refining Company its note for $1,894,592.11 with interest from date at the rate of seven per cent per annum, which gives the following set-up:

| | | |
|---|---|---|
| (a) | Original cost of Bradstreet properties..... | $ 649,999.00 |
| | Interest thereon from October 1, 1925, at simple 5 per cent to February 28, 1933..... | 241,041.29 |
| | Total ..... | $ 891,040.29 |

| | |
|---|---|
| (b) Deep Rock Oil and Refining Company note of January 1, 1931 | $ 1,894,592.11 |
| Interest at 7 per cent from January 1, 1931, to February 28, 1933 | 287,352.78 |
| Total | $ 2,181,944.89 |
| Total of above figures | $ 3,072,985.18 |
| Less Refining Company rentals charged prior to February, 1928 | 1,475,000.00 |
| Balance | $ 1,597,985.18 |

The above sum of $1,597,985.18 shall be allowed Standard on its claim, but subordinate and inferior to the prior rights of Deep Rock's creditors including the holders of the $10,000,000.00 Deep Rock notes issued under date of March 1, 1928, and maturing March 1, 1933. The interest on the $10,000,000.00 March 1, 1928, notes is to be computed at the stipulated annual rate of six per cent up to the date of the decree in this case, and the interest on the $649,999.00, above specified, is to be computed at the simple rate of five per cent per annum from February 28, 1933, to the date of the decree and added to the $241,041.29, interest up to February 28, 1933, and the total subordinated and postponed to the first payment of the $10,000,000.00 March 1, 1928, notes and bona fide claims of other Deep Rock creditors.

In accordance with the itemized tabulation furnished by George Knourek and Mr. Shinners it appears that Standard has paid to third parties on account of Deep Rock (excluding H. M. Byllesby and Company and all affiliated companies) the sum of $2,376,076.31, upon which interest has been computed at the simple rate of five per cent per annum from the dates of the advances to February 28, 1933, in the sum of $407,886.18, making a total of $2,783,962.49. The above stated principal sum of $2,376,076.31 is to be allowed Standard on its claim as an indebtedness (with five per cent interest thereon) of equal rank and parity with the $10,000,000.00 March 1, 1928, notes and other creditors, and interest is to be computed upon the principal, to-wit, $2,376,076.31, at the annual rate of five per cent per annum from February 28, 1933, to date of decree, and added to the $2,783,962.49. The Standard is to transfer to the Trustee in Bankruptcy the 9,000 shares of the Deep

Rock Oil and Refining Company stock and cancel and surrender to the Trustee Refining Company's note of January 1, 1931, for $1,894,592.11 and cancel all claims of all kinds and character against the Deep Rock Oil and Refining Company. The Standard's claim is to be reduced to the sum of $2,376,076.31, and allowed on a parity with the $10,000,000.00 March 1, 1928, notes, and claims of other creditors, with interest at the rate of five per cent per annum added thereto as above stated, and in addition thereto, the Standard shall be allowed the sum of $1,597,985.18, with interest at the rate of five per cent per annum on that portion thereof attributable to the Bradstreet item, from February 28, 1933, as above stated, and interest at the rate of seven per cent per annum upon the portion thereof attributable to the note of the Deep Rock Oil and Refining Company from February 28, 1933, to August 5, 1933, at which time a credit of $12,500.00 was given upon said note by reason of payments made to Standard by the Refining Company, and leaving a balance of $1,585,485.18 upon which interest shall be calculated at the rate of seven per cent per annum from August 5, 1933; all of which principal and interest is to be subordinated to the first and prior rights of Deep Rock's other creditors and in no manner share in the assets of the Deep Rock until after the $10,000,000.00 March 1, 1928, notes and the $2,376,076.31 allowed Standard have been paid, with interest thereon at the rate above stated.

All the assets of the Refining Company shall become the property and assets of the Deep Rock and subject to the claims of the creditors of the Deep Rock.

If this basis of settlement is accepted by the Trustee and Standard then a formal settlement agreement is to be drafted, and executed by counsel of record for the Trustee and Standard, subject to the court's approval. Also R. J. Graf, Trustee, shall execute and acknowledge a deed to the trustee conveying all the land covered by the Deep Rock's deed to Graf of date of December 6, 1922, which deed is to be attached to the settlement agreement and delivered to the Trustee upon the court's approval; if no court approval, the deed is to be returned to Graf.

Dated this 21st day of February, 1935.

Exhibit C.

Clerk's Note.—(This exhibit is a copy of the original offer of compromise of the Standard claim and appears in this record as "Offer of Standard Gas and Electric Company in Compromise and Settlement," attached to Petition #64, being Petition filed 3-8-35 entitled: "Petition for Authority to Compromise Claim of Standard Gas and Electric Company," omitted pursuant to praecipe.)

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(Order.)

On this 12th day of August, A. D. 1935, the District Court of the United States for the Northern District of Oklahoma, met pursuant to adjournment, F. E. Kennamer, Judge, present and presiding. H. P. Warfield, Clerk, U. S. District Court, C. E. Bailey, United States Attorney, John P. Logan, United States Marshal.

Public proclamation having been duly made, the following among other proceedings were had and entered, to-wit:

In the matter of Deep Rock Oil Corporation, a corporation, Debtor. In Bankruptcy No. 2318 Consolidated.

Now on this 12th day of August, A. D. 1935, it is ordered by the court that claim of Standard Gas and Electric Company be and it is hereby set for decision on September 16, 1935. It is further ordered that the Trustee herein be given to August 19, 1935, to file a lists of note holders. It is further ordered that Interveners Taylors, be given one week thereafter to mail letters to noteholders.

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Order No. 94.

It Is This Day Hereby Ordered by the court that the proposed compromise and settlement of the claim of the Standard Gas and Electric Company against the Deep Rock Oil Corporation and the report of the Special Master recommending the approval of the proposed compromise be, and the same is hereby set for further hearing at 10:00 o'clock A. M., Monday, September 23rd, 1935, in the Federal Court room at Tulsa, Oklahoma.

It Is Hereby Further Ordered That the Reorganization Committee of the Deep Rock Oil Corporation file with the

Trustee, on or before August 19, 1935, a list showing the name and last known address of each of the owners and holders of the Deep Rock Oil Corporation's notes issued under date of March 1, 1928, in the possession or accessible to the said Reorganization Committee, and the Trustee is ordered not to permit anyone to inspect said list or the list of Deep Rock stockholders except upon order of the court.

It Is Further Ordered that John M. and William H. Taylor, interveners, be and are hereby permitted to have printed a sufficient number of a circular letter addressed to the stockholders and noteholders of the Deep Rock Oil Corporation, to be mailed to each one of the noteholders and stockholders of Deep Rock Oil Corporation, said printed copies to be delivered to the Trustee on or before August 26, 1935.

It Is Further Ordered that the Trustee be and is hereby permitted to also have printed a sufficient number of his statement addressed to the stockholders and noteholders of the Deep Rock Oil Corporation to be mailed by him to each of the stockholders and noteholders of the Deep Rock Oil Corporation in the same envelope containing the letter addressed to the stockholders and noteholders by John M. and William H. Taylor.

It Is Further Ordered that the application of John M. and William H. Taylor to send out a letter in the form of the letter attached to their petition heretofore filed herein to vacate Order No. 71, be, and the same is hereby denied, and that in lieu thereof the foregoing order is made, to which said John M. and William H. Taylor, interveners, hereby except.

Upon John M. and William H. Taylor filing with the Trustee a sufficient number of printed copies of the aforesaid letter, the Trustee shall mail in the same envelope to each of the stockholders and noteholders of the Deep Rock Oil Corporation copies of the Taylors' letter and the Trustee's statement, and for this purpose the Trustee is directed to furnish sufficient postage stamps to transmit said letters through the mail, and the amount of postage shall be reported by the Trustee to this Court for the purpose of enabling the Court to tax the amount thereof as cost.

The Trustee is also ordered to mail a printed slip addressed to the stockholders and noteholders of the Deep Rock Oil Corporation stating therein that the exceptions and objec-

tions of John M. and William H. Taylor to the Master's report recommending the approval of the proposed compromise of the Standard's claim has been set for further hearing at 10:00 o'clock A. M., September 23rd, 1935, in the Federal Court room at Tulsa, Oklahoma, and that any stockholder or noteholder wishing to except to the Special Master's said report shall file his exceptions and objections thereto in writing in the Clerk's office on or before September 16th, 1935.

Made and Ordered Entered This 12th day of August, 1935.

F. E. KENNAMER,
U. S. District Judge.

Endorsed: Filed August 12, 1935. H. P. Warfield, Clerk U. S. District Court.

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Order No. 102.

Now, on this 23rd day of September, 1935, same being a regular court day of a term of this Court at Tulsa, Oklahoma, there came on for hearing the Exception and Objections of William H. Taylor and John M. Taylor, joined by the holders of 3633 shares of preferred stock who filed their objections to the report of the Special Master recommending the approval of the compromise entered into between the Trustee and the Standard Gas and Electric Company on the 20th day of March, 1935, whereby the Standard was to be allowed on its claim against the Deep Rock Oil Corporation, the principal sum of $2,376,076.31, with interest, on a parity with creditors of the Deep Rock Oil Corporation, and the principal sum of $1,585,485.18 subordinated to the claims of the other creditors of the Deep Rock Oil Corporation, the Trustee appeared by George S. Ramsey, Edgar de Meules, Villard Martin, and Garrett Logan, and the Standard Gas and Electric Company appeared by N. A. Gibson and R. M. Campbell, its attorneys, William H. Taylor and John M. Taylor, Interveners, appeared by Jason L. Honigman of the firm of Sempliner, Dewey Stanton & Honigman of Detroit, Travis I. Milsten and David R. Milsten, their attorneys, and the Reorganizational Committee appeared by J. S. Oates, and A. J. Biddison and after due consideration of the Master's report, the Objections filed thereto, the record, and argument of counsel, the court finds:

That the objections heretofore filed herein to the Master's

Report by William H. Taylor and John M. Taylor should be sustained and the Master's recommendations should be rejected and the proposed compromise disapproved.

It Is Therefore, Ordered, Adjudged and Considered by the court that the said compromise agreement entered into between the Trustee and the Standard Gas and Electric Company be, and the same is hereby disapproved.

Made and ordered and entered on this 23rd day of September, 1935, in lieu of former order No. 102, signed by the Court, disapproving the Standard compromise.

F. E. KENNAMER, Judge, (Sgd.)

Endorsed: Filed Oct. 15, 1935. H. P. Warfield, Clerk U. S. District Court.

O.K. Geo. S. Ramsey, Attorney for Trustee, N. A. Gibson, Attorney for Standard Gas & Electric Company.

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Petition for Hearing on the Merits of the Standard Gas and Electric Company Claim.

To the District Court of the United States for the Northern District of Oklahoma:

Now come John M. Taylor and William H. Taylor, Interveners, by Sempliner, Dewey, Stanton & Honigman, and Milsten and Milsten, their attorneys, and show unto this Honorable Court as follows:

1. That the Standard Gas and Electric Company has filed its claim herein for a sum in excess of Nine Million Dollars ($9,000,000.00). That, by the pleadings filed herein, the Trustee and your Interveners objected to the allowance of said claim and have filed counterclaims against said Standard Gas and Electric Company.

2. That the hearing in connection with this matter has heretofore been referred to the Honorable Preston M. West, Special Master, and that proofs taken before said Special Master were closed in February, of this year. That, after the completion of proofs herein, a proposal of compromise was submitted by said Standard Gas and Electric Company, with the approval of the Trustee herein and hearing thereon was held before the Special Master. That petitioners herein,

John M. Taylor and William H. Taylor, filed objections to said proposed compromise. That said Special Master recommended the approval of said compromise proposal and hearing was thereafter had before this Honorable Court, and that this court did, on September 23, 1935, order the disapproval of said compromise proposal and sustained the objections thereto filed by the said John M. Taylor and William H. Taylor.

3. That it is necessary that a final adjudication of said Standard claim should be made in order to effect the reorganization of the debtor corporation; that your petitioners allege that it is desirable that a hearing on the merits of said Standard claim, based on all of the testimony produced and submitted in this cause, and on such additional evidence as this Honorable Court may permit or direct, should be had.

Wherefore, Petitioners ask that this Honorable Court set a day certain for the hearing on the merits of the claim of the Standard Gas and Electric Company and counter-claims and offsets thereto.

SEMPLINER, DEWEY, STANTON
& HONIGMAN and
MILSTEN & MILSTEN.
By JASON L. HONIGMAN (Sgd.)
Attorneys for Interveners, John M. Taylor and William H. Taylor.

Endorsed: Filed Nov. 2, 1935. H. P. Warfield, Clerk U. S. District Court.

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Order No. 116.

Now on this, the 17th day of February, 1936, same being a regular day of a regular term of this court at Tulsa, Oklahoma, It Is Ordered that the Reorganization Committee of the Debtor, Deep Rock, Oil Corporation, submit to this court within forty-five (45) days from this date (unless time is extended by order of this court) an amended plan for the reorganization of the Debtor along with, and as a basis thereof, a new offer by the Standard Gas and Electric Company under the authority of the United States Court for the District of the State of Delaware for the compromise and settlement of all its claims against the Debtor, to be considered by this court along with the amended plan of reorganization,

upon notice to stockholders and creditors to be given as required by Section 77b of the National Bankruptcy Act.

(Signed) F. E. KENNAMER, Judge.

O.K. Geo. S. Ramsey, N. A. Gibson. Endorsed: Filed Feb. 17, 1936. H. P. Warfield, Clerk U. S. District Court.

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Report on Amended Deep Rock Reorganization Plan.

In the early part of January, 1936, your Honor informally appointed the undersigned, N. A. Gibson and Geo. S. Ramsey, and Mr. Travis Milsten, as a committee to examine and report our views on an amended Deep Rock Oil Corporation reorganization plan to be submitted tentatively by the Deep Rock's Reorganization Committee, coupled with a suggested compromise of the claim of the Standard Gas and Electric Company against the Deep Rock Oil Corporation. Shortly thereafter the Reorganization Committee submitted to each of us two printed copies of a proposed letter to be signed by the Reorganization Committee addressed to the Holders of the 6% Convertible Gold Notes, due March 1, 1933, the 7% Convertible Gold Notes, due March 1, 1937, and the $7.00 Cumulative Convertible Preferred Stock and creditors of Deep Rock Oil Corporation (formerly Shaffer Oil and Refining Company) with attached thereto as Appendix 1, an undated letter addressed to the Reorganization Committee for Deep Rock Oil Corporation to be executed by H. N. Greis, Trustee of the Deep Rock Oil Corporation, with also attached thereto "Amended Plan of Reorganization for Deep Rock Oil Corporation". The proposed amended plan of reorganization contemplates the compromise of the claim of the Standard Gas and Electric Company against the Deep Rock, as therein suggested, and provides that the District Court of the United States for the Northern District of Oklahoma shall retain jurisdiction of the new Company's affairs until the outstanding principal amount of income debenture has been reduced to $5,000,000.00, and this court's jurisdiction shall include the power to name the chief executive officers of the new Company, and his successors, and to fix the amount of compensation to be paid to such officer.

On February 5, 1936, this committee had a conference from which it appeared that Mr. Milsten, counsel for the Taylors, two of the preferred stockholders, would withhold his approval

of the proposed amended plan. Thereafter, on February 6, 1936, the undersigned, N. A. Gibson and Geo. S. Ramsey, addressed a letter to Mr. Milsten, a copy of which is hereto attached and made a part hereof as Exhibit A. In accordance with the request contained in the letter of February 6, 1936, addressed to Mr. Milsten, he has submitted his objections to the proposed amended plan and compromise of the Standard's claim. We herewith attach his written objections to this report as Exhibit B.

The proposed amended plan speaks for itself and as it will be necessary for the court, when it is submitted, to carefully examine and analyze the proposed amended plan, we deem it unnecessary to set out an analysis or any argument in support of the amended plan. The undersigned have carefully examined the proposed amended plan and we are of the opinion that it is the best solution of the Deep Rock's present corporate and financial situation and we therefore recommend to the court that an order be entered directing the Reorganization Committee to obtain from the Standard Gas and Electric Company, with the approval of the United States Court for the District of Delaware, its, Standard's, written offer of a compromise of all its claims against the Deep Rock Oil Corporation, as suggested in the amended plan, and that said Committee, within forty-five (45) days, report said amended plan and proposed compromise to this court for a hearing thereon as provided by Section 77b of the National Bankruptcy Act.

Respectfully submitted,

(Signed) N. A. GIBSON,
(Signed) GEO. S. RAMSEY.

Endorsed: Filed Feb. 17, 1936. H. P. Warfield, Clerk U. S. District Court.

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(Exhibit A.)

Tulsa, Oklahoma, February 6, 1936.

Mr. Travis Milsten, Attorney, Beacon Life Building, Tulsa, Oklahoma.

In the Matter of Deep Rock Oil Corporation, a corporation, Debtor, in Bankruptcy No. 2318 Consolidated—District Court of the United States for the Northern District of Oklahoma.

Dear Sir: It appeared in our conference yesterday after-

noon that you are not quite satisfied with the proposed amended Deep Rock Oil Corporation reorganization plan submitted at the direction of Judge Kennamer by the Reorganization Committee to you, as counsel for the Taylors, two of the preferred stockholders, and the undersigned, N. A. Gibson, counsel for the Standard Gas and Electric Company, and Geo. S. Ramsey, counsel for the Trustee, for our recommendations.

We think this Committee should make an early report to the court and that your views and objections should be submitted to us in writing for the careful consideration of the whole Committee so we can again confer, and if unable to reach a unanimous conclusion, we can report your objections to the court with whatever report we or any of us make.

Please let us have your written objections within the next 7 days.

Yours most respectfully,

(Signed) N. A. GIBSON,
(Signed) GEO. S. RAMSEY,

GSR-ME

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(Exhibit B.)

Law Offices Milsten & Milsten; Travis I. Milsten, David R. Milsten, 424-428 Beacon Life Building, Tulsa, Oklahoma; Telephones 9207, 9208.

February 13, 1936.

Messrs. George S. Ramsey and N. A. Gibson, National Bank of Tulsa Building, Tulsa, Oklahoma.

In the Matter of Deep Rock Oil Corporation, a corporation, Debtor, in Bankruptcy No. 2318 Consolidated—District Court of the United States for the Northern District of Oklahoma.

Gentlemen: I acknowledge receipt of your letter of February 6, 1936, wherein you suggest that, in view of the fact that I advised you in our conference on February 5, 1936, that I was not satisfied with the proposed Amended Plan of Reorganization of the Deep Rock Oil Corporation, submitted by the Reorganization Committee, that I should submit my objections thereto in letter form, for your further consideration. In accordance with said suggestion, I have given this matter further thought and have particularly considered and deliber-

ated on the suggestions made by you gentlemen in our conference. My opinion remains unchanged. My disapproval of the proposed Amended Plan is based on the following considerations:

The record in the litigation, in my opinion, establishes that the Standard Gas and Electric Company does not have a valid claim against the Debtor Company. My position with reference to the Standard claim fully appears in the objections and printed brief filed by counsel for the Taylors, the original objectors to the compromise proposal rejected by Judge Kennamer. The status of Standard's claim as appraised and expressed by Judge Kennamer at the conclusion of the hearing on September 25, 1935, is as follows:

"Now, I am just indicating to you the things I think will be reasonable, and maybe it will help you out, but if you cannot reach a settlement, I will enter an order denying the claim (referring to Standard's claim), on the ground that the instrumentality rule applies." (Transcript, p. 73.)

Under the record, I submit that a claim should be made by the Debtor Corporation against the Standard for illegal withdrawal of its capital investment in the Debtor Corporation.

In advance of the determination of the claim of Standard, it is difficult to determine on what basis, if any, the claim of Standard should be considered. The $5,000,000.00 claim of the preferred stockholders is a definite liquidated claim, but, notwithstanding this fact, the proposed amended plan grants to Standard 73% of the common stock of the proposed company, and provides for only 19½% of said common stock to be issued to the preferred stockholders.

If we may assume that the going concern value of Deep Rock is $15,000,000.00, then by reducing the position of the preferred stockholders to 19½% of the common stock, the preferred stockholders would receive only about 19% of their investment. There is no reason, in my opinion, why Standard's position should not be subordinated to the position of the holders of preferred stock. If this were done, on a $15,000,000.00 valuation, the preferred stockholders might be made whole. On a $20,000,000.00 valuation on Deep Rock, the preferred stockholders would make a complete recovery of their investment, and Standard would obtain $5,000,000.00

on its claim, being all of the equity above said $15,000,000.00 valuation.

The proposed Amended Plan, while an improvement over the original plan submitted by the Reorganization Committee, does not recognize the rights of creditors and preferred stockholders of the Debtor Corporation, established by the record of testimony in the litigation. Said amended plan does not even follow the plan of reorganization proposed by Judge Kennamer at the conclusion of the hearing on September 25, 1935. It constitutes a complete departure from the court's recommendations. Under the plan suggested by the court, on the assumption of the valuation of Deep Rock's assets at $15,000,000.00, the preferred stockholders would have the opportunity of ultimately realizing about $2,000,000.00 or 40% of their investment, and Standard would realize around $3,000,000.00. On the other hand, under the provisions of the amended plan, the preferred stockholders receive only 19½% of the proposed common stock and may hope to realize only approximately $1,000,000.00, whereas Standard would recover approximately four times that amount. This analysis shows the great inequity presented by the amended plan.

It is obvious that the note-holders should have no basis for complaint insofar as the securities which it is proposed they will receive under the amended plan are concerned. However, they have every reason for objecting to the control of the new corporation in the hands of Standard by virtue of its ownership of 73% of the common stock. The directors of the new corporation could be, and no doubt would be, Standard representatives or men of Standard's selection. It developed in the testimony taken before the Special Master on Standard's claim, that Standard owned all of the stock of the Byllesby Engineering and Management Corporation, and received from Deep Rock over $23,000,000.00 in dividends. It also developed that the Deep Rock Oil Corporation made over $192,000,000.00 in 13 years, while under Standard's domination, and yet its net profits were only slightly over $10,000,000.00. The record shows that that was the result and effect of Standard's management and control of Deep Rock. Yet, the Amended Plan of Reorganization proposes the return of the control of Deep Rock to the same group which is and was responsible for that record. The preferred stockholders

whose investment was destroyed by Standard domination are now invited to submit their fate to the same control.

Confidence and harmony among the noteholders and preferred stockholders would certainly not be promoted by the return of the management of the corporation to the power or powers responsible for Deep Rock's collapse.

Under the Amended Plan, Standard surrenders very little over the original plan which has, in effect, been rejected by the court on our objections. The Amended Plan grants to Standard its claim on the basis of $5,000,000.00, which is the same amount proposed by the compromise agreement rejected by the court. The entire difference in the new plan, so far as Standard is concerned, is that $2,500,000.00 of preferred stock, which they were to receive under the former proposal, is eliminated, and they get 73% of the common stock instead of 75% of the common stock, under the old plan. An analysis of the proposal compels the conclusion that the giving up of $2,500,000.00 of preferred stock is little more than a gesture, because of the fact that 73% of that equity is retained by Standard. Standard is thus changing its position under the Amended Plan only to the extent of a 25% interest in the $2,500,000.00 of preferred stock that is equivalent to about $575,000.00 of said preferred stock.

No security and/or opportunity is afforded to the preferred stockholders by the Amended Plan, of ever rehabilitating their investment. Standard should not be permitted to profit by their mismanagement at the expense of the holders of preferred stock. As investors in preferred stock, the holders thereof sought no speculative profits such as are hoped for by the investor in common stocks. The proposed plan even eliminates the right of preferred stockholders to their preferential contractual rights on liquidation. As a matter of fairness and contractual right, the holders of preferred stock are entitled to a far greater position of preference and security. The record discloses that the court recognizes that the preferred stockholders are entitled to substantial preferential rights (page 5 of transcript of hearing held on September 25, 1935).

Conclusion and Suggested Recommendation to the Court.

As a member of the Committee to which Judge Kennamer has assigned for consideration the Amended Plan of Reor-

ganization originally proposed by Mr. Shinners, Chairman of the Reorganization Committee, and now offered by said Committee, I am unable to concur in your opinion that our committee should recommend said Amended Plan to the court. I keenly feel my responsibility in this matter. I am impressed that Judge Kennamer referred this matter to us because he knew that we are familiar with the record in the litigation. The large number of people resident all over the country, who have their money invested in the Deep Rock, except for a very limited number of them, are not familiar with the record. I submit that, to date, the Reorganization Committee has not released the facts in connection with Standard's claim to the investors in interest. In view of the record in the litigation, and under the facts, I respectfully dissent from your opinion in this matter, and urge you to reconsider this matter and to recommend the following to Judge Kennamer:

First: That Standard's claim should be set down for a hearing on the merits, and a final adjudication on the validity thereof should be obtained. Even Mr. Oates, counsel for the Reorganization Committee, recognizes the necessity of determination of Standard's claim. At the conclusion of the hearing on September 25, 1935, he urged the necessity of a determination thereof. In urging this contention, Mr. Oates made this statement:

"The point I want to make, until we know what the Standard's claim is, just as well as we know what the $10,000,000.00 note issue is, and the value of the property is, we cannot intelligently submit a plan to the Security Board, which is a primary step precedent to the submission of the plan to the court." (Transcript of hearing on September 25, 1935, p. 79.)

Second: That an independent committee, representative of the security holders of the Deep Rock, should be appointed. The record reflects that certain members of the Reorganization Committee are connected with either the Byllesby organization or the Standard Gas and Electric Company. Yet, the security holders who have deposited their securities have relied on them for disinterested representation.

Third: An immediate appraisal of Deep Rock's properties and assets, prepared by the Trustee or some other person or persons qualified to make a fair appraisal of the Debtor property should be forthwith ordered by the court.

When a determination of Standard's claim is made, and

an appraisal of Deep Rock's assets is filed, we will then be in a position to know and to consider the equities of the parties in interest. The Amended Plan proposed by the Reorganization Committee does not, in my opinion, present anything akin to what a fair compromise would be, and, therefore, I am compelled to the conclusion that our committee should disapprove it.

If, after considering the foregoing objections, you gentlemen are still insistent on submitting a report to the court recommending the Amended Plan, I respectfully request you to show that I dissent from your opinion and recommendation, and that a copy of this letter be transmitted, with your report, to the Hon. Franklin E. Kennamer, Judge of the District Court for the Northern District of Oklahoma.

Respectfully yours,

tim/b TRAVIS I. MILSTEN.
TRAVIS I. MILSTEN.

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Order No. 119.

On this 16th day of March, 1936, comes on for further hearing the application of Preston C. West, Special Master, for allowance of compensation for his services as such Special Master In the Matter of the Claim of Standard Gas and Electric Company, the court is of opinion that a final allowance should be made at this time of Five Thousand ($5,000.00) Dollars for services rendered in connection with said claim of Standard Gas and Electric Company.

It Is By The Court Ordered that said Special Master, Preston C. West, be, and he is hereby, allowed the further sum of $5,000.00 as final allowance for services rendered as such Special Master In the Matter of the Claim of Standard Gas and Electric Company against Deep Rock Oil Corporation, the same to be paid forthwith by H. N. Greis, Trustee of Deep Rock Oil Corporation, one-half thereof to be charged to the account of Standard Gas and Electric Company to be hereafter taken into consideration, and the Trustee is authorized to collect the same from the Standard Gas and Electric Company.

F. E. KENNAMER, Judge.

Endorsed: Filed March 16, 1936. H. P. Warfield, Clerk U. S. District Court.

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Order No. 120.

Now on this 31st day of March, 1936, same being a regular day of this Court, at Tulsa, Oklahoma, upon application of the Reorganization Committee of the Debtor, Deep Rock Oil Corporation, for further extension of time within which to submit an amended plan for the reorganization of the Debtor, along with, and as a basis thereof, a new offer of the Standard Gas and Electric Company, under authority of the United States District Court for the District of the State of Delaware, for the compromise and settlement of all of its claims against the Debtor, to be considered by this court along with the amended plan of reorganization upon notice to stockholders and creditors to be given as required by Section 77b of the National Bankruptcy Act;

And the said Reorganization Committee having represented to the court that, by reason of delay in procuring authority of the United States Court in Delaware for the offer of a compromise and settlement of the claim of Standard Gas and Electric Company against Deep Rock Oil Corporation, further time is required within which to complete and present the amended plan of reorganization hereinabove described.

The court having been advised in the premises, Orders and Decrees that the time heretofore allowed by the order of this court, entered on the 17th day of February, 1936, by and in which time for the presentation of the said amended plan of reorganization was fixed within 45 days from said date, unless further extended by order of this court, be, and the same is hereby, extended, and It Is Ordered that the said Reorganization Committee submit said amended plan of reorganization in the manner and form hereinabove described to this court within 60 days from and after the expiration of the time heretofore allowed, and that said amended plan so to be submitted shall thereafter be heard upon notice to stockholders and creditors as required by Section 77b of the National Bankruptcy Act.

(Signed) F. E. KENNAMER, Judge.

Endorsed: Filed March 31, 1936. H. P. Warfield, Clerk U. S. District Court.

Order No. 123.

Now on this 28th day of May, 1936, same being a regular day of this court, at Tulsa, Oklahoma, upon application of the Reorganization Committee of the Debtor, Deep Rock Oil Corporation, for further extension of time within which to submit an amended plan for the reorganization of the Debtor, along with, and as a basis thereof, a new offer of the Standard Gas and Electric Company, under authority of the United States District Court for the District of the State of Delaware, for the compromise and settlement of all of its claims against the Debtor, to be considered by this court along with the amended plan of reorganization upon notice to stockholders and creditors to be given as required by Section 77b of the National Bankruptcy Act;

And the said Reorganization Committee having represented to the court that, by reason of delay in procuring authority of the United States Court in Delaware for the offer of a compromise and settlement of the claim of Standard Gas and Electric Company against Deep Rock Oil Corporation, further time is required within which to complete and present the amended plan of reorganization hereinabove described, to which application John M. and William H. Taylor objected.

The court having been advised in the premises, Orders and Decrees that the time heretofore allowed by the order of this court, entered on the 31st day of March, 1936, by and in which time for the presentation of the said amended plan of reorganization was fixed within 60 days from said date, unless further extended by order of this court, be, and the same is hereby, extended, and It Is Ordered that the said Reorganization Committee submit said amended plan of reorganization in the manner and form hereinabove described to this court within 30 days from and after the expiration of the time heretofore allowed, and that said amended plan so to be submitted shall thereafter be heard upon notice to stockholders and creditors as required by Section 77b of the National Bankruptcy Act, to which order extending time the said interveners John M. and William H. Taylor, except.

F. E. KENNAMER, Judge.

Endorsed: Filed May 28, 1936. H. P. Warfield, Clerk U. S. District Court.

In the District Court of the United States in and for the Northern District of Oklahoma, Special March 1936 Term—Bankruptcy Session. Tulsa, Oklahoma, Monday, July 6, 1936.

Court convened pursuant to adjournment, Monday, July 6, 1936. Present: Hon. F. E. Kennamer, Judge, U. S. District Court. H. P. Warfield, Clerk, U. S. District Court.

Thereupon, the following among other proceedings were had and entered, to-wit:

In the matter of Deep Rock Oil Corporation, a corporation, Debtor. No. 2318 Bankruptcy, Consolidated.

Now on this 6th day of July, 1936, it is ordered by the Court that Milsten and Milsten, attorneys for interveners, Taylor & Taylor, have access to list of security holders in clerk's office. It is further ordered that Trustee bring said list of security holders down to date in clerk's office and clerk is hereby ordered to notify Trustee of this Order by telephoning him.

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Order.

Now on this 25th day of June, 1936, the above entitled matter came on for hearing upon the application of the Reorganization Committee of Deep Rock Oil Corporation for an extension of time within which to present a plan of reorganization; the court having heard the request of the Chairman of the Reorganization Committee, and the objection of counsel for Messrs. Taylor and Taylor, and being fully advised in the premises,

It Is By The Court Ordered that the time heretofore granted for the presentation of a plan of reorganization of Deep Rock Oil Corporation under the provision of the law applicable thereto, be, and the same is, hereby extended to and including the 21st day of September, 1936; and in the event that a plan of reorganization shall have been filed at or prior to that time, the court will thereupon set the same for hearing upon the notice required by law and the claim of the Standard Gas & Electric Company is set for determination on said date.

F. E. KENNAMER, Judge.

O. K. Geo. S. Ramsey.

Endorsed: Filed July 6, 1936. H. P. Warfield, Clerk U. S. District Court.

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Motion.

Now come the Reorganization Committee of Deep Rock Oil Corporation and respectfully show to the court that Standard Gas and Electric Company has filed in the United States District Court for the District of Delaware, in the proceeding there pending under Section 77b of the Bankruptcy Act, No. 1204, involving the reorganization of Standard Gas and Electric Company, a petition directed to the District Court aforesaid, reciting the relations existing between Standard Gas and Electric Company and Deep Rock Oil Corporation, and particularly with reference to the claim of Standard Gas and Electric Company against Deep Rock Oil Corporation now pending for hearing in this Honorable Court, and has, in connection with the said petition, presented an amended plan of reorganization of Deep Rock Oil Corporation, and embodied in said amended plan as so filed a proposition for the compromise of the claim of Standard Gas and Electric Company against Deep Rock Oil Corporation.

That a true and correct copy of the said petition so filed in the United States District Court for the District of Delaware in said cause No. 1204, with all exhibits thereto, including the claim of Standard Gas and Electric Company against Deep Rock Oil Corporation, the original plan of reorganization of Deep Rock Oil Corporation as heretofore submitted, and the amended plan of reorganization of Deep Rock Oil Corporation as now proposed, and other matters incidental to the said petition, is hereto attached.

That until the said application to the said United States District Court for the District of Delaware shall have been heard and passed upon by said court, it will not be possible to proceed with the plan for the reorganization of Deep Rock Oil Corporation in this court, or to determine the advisibility of the compromise of the claim of Standard Gas and Electric Company.

That the said application so filed in Delaware has been set for hearing on the 30th day of October, 1936, and until said time it will be impossible to present an authentic plan, or to submit to this court the advisibility of the compromise and the other matters necessarily incident to the present proposed amended plan of reorganization.

Wherefore, the Reorganization Committee of Deep Rock Oil

Corporation respectfully prays that this matter be continued until after the action of the District Court of the United States for the District of Delaware shall have been had, and immediately upon such action taking place, information to that effect will be submitted to the court by this Committee and a time asked for the hearing of the compromise and amended plan of reorganization.

REORGANIZATION COMMITTEE OF
DEEP ROCK OIL CORPORATION,
By J. J. SHINNERS, (Sgd) Chairman.

Endorsed: Filed Sept. 19, 1936. H. P. Warfield, Clerk, U. S. District Court.

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In the District Court of the United States for the District of Delaware.

In the Matter of Standard Gas and Electric Company, Debtor. Proceedings for Reorganization under Section 77b of the Bankruptcy Act. No. 1204.

To the Honorable the Judge of the District Court of the United States for the District of Delaware:

The petition of Standard Gas and Electric Company, Debtor, respectfully represents:

1. The Debtor was organized for, and is engaged in, the business of owning and holding the bonds, debentures, notes, stocks and other securities of other corporations, particularly public utility and industrial corporations, and of performing all acts incidental to such ownership of securities. One of the corporations of which securities are owned by the Debtor is Deep Rock Oil Corporation (hereinafter referred to as "the Oil Company"), a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Tulsa, Oklahoma, and of which, as hereinafter more fully set forth, H. N. Greis has been appointed and is now acting as Trustee pursuant to the provisions of Section 77b of the National Bankruptcy Act, as amended.

2. The Oil Company is engaged in the business of producing, refining and marketing petroleum and allied products. The Oil Company owns oil and gas lands and leaseholds in the States of Oklahoma, Texas, Kansas and Louisiana, operates a refinery in the State of Oklahoma, owns pipe lines and tank

cars, and owns and operates distributing and service stations in the States of Illinois, Indiana, Wisconsin, Iowa, North Dakota, South Dakota, Minnesota, Arkansas, Oklahoma, Texas and Missouri. The Oil Company also owns all of the outstanding stock of Deep Rock Petroleum Company, an Illinois corporation, Deep Rock Oil Company, a Delaware corporation, Deep Rock Oil Company of Wisconsin, a Wisconsin corporation, Southern Illinois Service Stations Company, an Illinois corporation, Ozark Car Corporation, a Delaware corporation, High Test Oil Corporation, an Illinois corporation, Home Oil Company, a Delaware corporation, and Deep Rock Eastern Oil Corporation, a Delaware corporation, and a majority of the outstanding stock of Deep Rock Oil Company of Nebraska, a Delaware corporation. Each of these corporations is engaged in one or more phases of the petroleum industry. The aggregate of their earnings and assets is, however, relatively small in comparison with those of the Oil Company.

3. The Oil Company was incorporated under the laws of the State of Delaware on May 31, 1919, under the name "Shaffer Oil and Refining Company." On March 31, 1930, its name was changed to "Deep Rock Oil Corporation." At all times since the date of the organization of the Oil Company, the Debtor has owned more than ninety-five per cent (95%) of the shares of common stock of the Oil Company and from time to time the Debtor has owned substantial amounts of the bonds, notes and preferred stock of the Oil Company. At substantially all times from the date of the organization of the Oil Company to February 28, 1933 (the date of the appointment of a receiver for the Oil Company, as hereinafter set forth), it was necessary for the Oil Company to procure loans to it of large sums of money for use in its business. A considerable part of this money was procured by the Oil Company through the sale to the public of bonds, notes and stock of the Oil Company, but on many occasions, because of the fact that general financial conditions or the condition of the oil industry or of the Oil Company in particular precluded the raising of money by the sale of securities to the public or because of the fact that the funds were needed immediately and without the delays necessarily incident to public financing, it was imperative that moneys be loaned to the Oil Company by the Debtor, which, because of its large investment in the Oil Company, deemed it to the interests of the Debtor that the Oil Company be provided with the

funds required for the proper administration of its business and operation of its properties. As a result, during a large part of the period in question, monthly accountings were had between the Debtor and the Oil Company, which at various times repaid (in large part by credits to the Debtor on open account or by delivery to the Debtor of common stock of the Oil Company in satisfaction thereof) all or a part of the moneys loaned to it by the Debtor, but which is now indebted to the Debtor as hereinafter set forth. On February 28, 1933, the total investment of the Debtor in the Oil Company aggregrated approximately $34,100,000, represented principally by the price of the common stock of the Oil Company purchased by the Debtor at or about the time of the organization of the Oil Company, the amount of moneys advanced by the Debtor to the Oil Company, the indebtedness in respect of which was subsequently cancelled by the acceptance by the Debtor from the Oil Company of stock of the Oil Company in lieu thereof, and loans made from time to time by the Debtor to the Oil Company over an extended period.

4. The capitalization and major indebtedness of the Oil Company, as reflected by its books, and the amounts thereof owned by, or owing to, the Debtor, of as February 28, 1933, were approximately as follows:

| | | Outstanding | Owned by Debtor |
|---|---|---|---|
| Six Per Cent Convertible Gold Notes (unsecured) originally due March 1, 1933: Extended to March 1, 1937, at 7% | $7,819,500.00 | | |
| Not extended | 2,180,500.00 | $10,000,000.00 | None |
| Secured Notes, payable serially | 34,388.80 | | |
| Assumed indebtedness of former subsidiary | 3,365.30 | 37,754.10 | None |

| | Out-standing | Owned by Debtor |
|---|---|---|
| Open account indebtedness to Standard Gas and Electric Company (unsecured) current | 9,342,642.37 | $9,342,642.37 |
| Miscellaneous current indebtedness | 880,488.00* | None |
| $7 Cumulative Convertible Preferred Stock, without par value (cumulative dividends unpaid — $758,-333.33) | 50,000 shares | 969 shares |
| Common stock, without par value | 599,475 shares | 579,132 shares |

*Exclusive of reserve of $219,681 for liabilities.

5. Under date of May 2, 1932, the Oil Company sent a communication to the holders of its Six Per Cent Convertible Gold Notes, of which there were then $10,000,000 principal amount outstanding, all maturing March 1, 1933, stating that the cash resources of the Oil Company were not sufficient to provide for the maturity of the notes, that its operations during the following ten months could not be expected to produce the large sum required to meet the maturity and that in view of the drastic depression in the oil industry, the unsatisfactory earnings of the Oil Company and prevailing business and financial conditions, the Oil Company could not reasonably expect to derive the necessary amount from the sale of securities or safely rely upon possible banking or credit arrangements for funds with which to meet the maturity and, therefore, requesting the holders of the notes to extend the date of the maturity thereof from March 1, 1933, to March 1, 1937; the Oil Company agreeing to pay interest during the period of extension at the rate of seven per cent per annum. On February 28, 1933, the holders of more than $7,800,000 principal amount of the $10,000,000 prin-

cipal amount of the notes then outstanding had agreed to such an extension; the Debtor had previously agreed, in effect, to accept payment of indebtedness to it only equally and ratably with the retirement of Convertible Gold Notes of the Oil Company. On February 28, 1933, a petition was filed in the District Court of Tulsa County, Oklahoma, against the Oil Company, in a cause entitled "John L. Gray and L. B. Riddle, Plaintiffs, versus Deep Rock Oil Company, a corporation, et al., Defendant," by John L. Gray, the owner of 7,820 shares (out of a total outstanding issue of 599,475 shares) of common stock of the Oil Company and L. B. Riddle, the owner of 2,966 shares of said common stock and of $10,000 principal amount (out of a total outstanding issue of $10,000,000 principal amount) of the Six Per Cent Convertible Gold Notes of the Oil Company, requesting the appointment of a receiver for it, and on that date E. H. Moore was appointed receiver by that court. On March 1, 1933, the Oil Company caused the proceedings to be removed to the District Court of the United States for the Northern District of Oklahoma. On March 2, 1933, an amended bill of complaint was filed by the plaintiffs in the latter court in equity cause No. 844 and the court appointed H. N. Greis and E. H. Moore (neither of whom was or is in any way affiliated with the Debtor herein or with any of its subsidiaries, except as receiver or trustee for the Oil Company as herein set forth). Ancillary receivers were subsequently appointed for the Oil Company in the various jurisdictions in Oklahoma and numerous other states in which property of the Oil Company was located, and in the State of Delaware in which it was incorporated. On June 7, 1934 (the date upon which Section 77b of the National Bankruptcy Act, as amended, became effective), a petition was filed by the Oil Company under that Section in the District Court of the United States for the Northern District of Oklahoma, in which, among other things, it was alleged that the Oil Company was unable to pay its debts as they matured and that it desired to effect a plan of reorganization. On the same date an order was entered by that court by which the court approved the petition as properly filed, took jurisdiction over the property and business of the Oil Company wherever located and appointed H. N. Greis, who had theretofore been a receiver for the Oil Company, as Trustee for the Oil Company until further order of the court. Subsequently H. N. Greis was appointed permanent Trustee for the Oil Company, and he has since continued to act in that capacity.

6. On March 27, 1933, the Debtor filed in the office of the clerk of the District Court of the United States for the Northern District of Oklahoma, a proof of claim by the Debtor against the Oil Company in the sum of $9,342,642.37. On or about August 15, 1933, an amended and itemized proof of claim was filed by the Debtor for the same amount. On or about that date there was filed, in behalf of the Receiver of the Oil Company for that district, a so-called "answer and counter-claim," which wholly denied the existence of a claim by the Debtor herein against the Oil Company and averred that the Debtor herein was, in fact, indebted to the Oil Company. On January 5, 1934, an order was entered by the court referring the claim to Preston C. West, Esquire, of Tulsa, Oklahoma, as Special Master. Hearings were begun before him on or about May 28, 1934, and continued from time to time until June 7, 1934, the date upon which a petition was filed by the Oil Company under Section 77b of the National Bankruptcy Act, as amended, as hereinbefore set forth. On June 22, 1934, a proof of claim (a copy of which, marked Exhibit A, is annexed hereto) was filed by the Debtor against the Oil Company in the proceedings under said Section 77b in the District Court of the United States for the Northern District of Oklahoma entitled "In the Matter of Deep Rock Oil Corporation, a corporation, Debtor, In Bankruptcy No. 2318, Consolidated," in the amount of $9,342,642.37 and thereafter so-called "answer and counter-claim" by the Trustee was filed which wholly denied the existence of a claim by the Debtor against the Oil Company and alleged that the Debtor herein was indebted to the Oil Company in the sum of $8,756,719.50, by reason of alleged unlawful payments by the Oil Company to the Debtor herein and to Deep Rock Oil and Refining Company and Byllesby Engineering and Management Corporation (all of the stock of each of which was then owned by the Debtor), respectively, which were claimed therein to be, in fact, agencies and instrumentalities of the Debtor herein. A stipulation was entered into between the Debtor herein and H. N. Greis, Trustee, that the reference made as hereinbefore recited on January 5, 1934, to the aforesaid Special Master of the claim of the Debtor herein should stand as a reference in the proceedings under said Section 77b and that the testimony theretofore taken before the Special Master should likewise stand as testimony under said Section 77b.

7. On August 9, 1934, the Oil Company filed in the court a Plan of Reorganization, which was duly proposed by the Oil Company on August 20, 1934.

8. Under date of August 21, 1934, the aforesaid proposed Plan of Reorganization of the Oil Company was submitted to the holders of the Convertible Gold Notes, $7 Cumulative Convertible Preferred Stock and other creditors of the Oil Company by a Reorganization Committee composed of John J. Shinners (Chairman), Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy, and Albert J. Robertson. A copy of the proposed Plan of Reorganization, the communication of the Reorganization Committee to the aforesaid security-holders and other creditors and the Deposit Agreement under which securities were proposed to be deposited, is annexed hereto, marked Exhibit B, and by reference made a part hereof. Reference is specifically made to said Exhibit B for the full terms, provisions and conditions thereof.

9. As more fully set forth in said Exhibit B, the Reorganization Plan provided for the formation of a new company to acquire the assets of the Oil Company and for the distribution of securities of the new company as follows:

> To the holders of the $10,000,000 principal amount of Convertible Gold Notes of the Oil Company—$10,000,000 principal amount of Income Debentures and approximately 15% of the common stock of the new company;
>
> To the Debtor herein, in full satisfaction of all indebtedness which might be determined to be owing to it by the Oil Company and by the Refining Company, hereinafter mentioned, and in consideration of the transfer to the new company of the entire capital stock of the Refining Company—25,000 shares (to be all of the issued and outstanding shares) of $7 Cumulative Preferred Stock and approximately 75% of the common stock of the new company; and
>
> To the holders of the $7 Cumulative Convertible Preferred Stock of the Oil Company—approximately 10% of the common stock of the new company (resulting in 1 share of such new common stock for each share of preferred stock of the Oil Company.

Under the terms of the proposed Reorganization Plan, no

securities or other property were to be received by the holders of the common stock of the Oil Company.

10. The total proposed capitalization of the new company under the Reorganization Plan was as follows:

| | |
|---|---|
| Fifteen Year Six per cent Cumulative Income Sinking Fund Debentures | $10,000,000* |
| $7 Cumulative Preferred Stock (without par value) | 25,000 shares |
| Common Stock (without par value) | 520,000 shares* |

*These amounts were subject to increases according to the additions thereto that might be required to meet certain debts then unliquidated.

11. In its communication to the noteholders, the Reorganization Committee made the following statement (the Debtor herein being referred to in said statement as "Standard"):

"It will be noted that no provisions under the Plan is made for the Common Stock. The Standard claim has been allotted a position in the reorganization based upon the theory that Standard can justify its claim in a substantial manner. Before reaching any conclusions with respect to the Standard claim, the Committee and its counsel made an independent detailed study and analysis of the transactions and accounts between the Corporation and Standard covering the period from the organization of the Corporation to the date of the receivership. Based on this investigation, the Committee believes that Standard could justify and support a claim for approximately $7,300,000. Because of the existence of certain covenants in the Indenture under which the Convertible Gold Notes were issued, a question, may be presented as to whether the entire amount, as allowed on the Standard claim, should rank on a parity with the Convertible Gold Notes. In this connection it should be noted that the terms of the Plan provide for a subordination of the entire claim of Standard to the Income Debentures to be issued to the holders of Convertible Gold Notes, as Standard has consented to take only preferred and common stock for its claim, whereas the holders of Convertible Gold Notes will receive a prior security for the full principal amount of their notes and in addition approximately 15% of the new common stock. Furthermore, the Plan provides that Standard shall cancel all indebtedness ow-

ing to it by Deep Rock Oil and Refining Company and transfer all of the capital stock of that company to the new company thus making it unnecessary for the new company to make future rental payments with respect to the properties heretofore leased from the Refining Company. In view of the foregoing, in the judgment of the Committee, the final determination of the claim of Standard will not affect the fairness of the Plan provided the claim is allowed for at least $5,000,000, of which a substantial portion shall be held to rank on a parity with the Convertible Gold Notes.

"However, inasmuch as the Standard claim has not been determined by the court, the Plan provides that the holders of Convertible Gold Notes assenting to the Plan before such determination, shall be given an opportunity to consider the fairness of the Plan in the light of the actual determination. Therefore upon determination of the claim of Standard by the Oklahoma District Court, notice of the terms of such determination will be given to those who have theretofore deposited Convertible Gold Notes with the Committee and such depositors will be given an opportunity to reconsider the Plan and to withdraw their deposited Notes Without Expense, as more fully provided in the Deposit Agreement annexed to the Plan if they so desire."

12. On February 27, 1923, the Debtor had caused Deep Rock Oil and Refining Company (herein referred to as "the Refining Company"), to be incorporated under the laws of the State of Delaware. The Refining Company was formed to acquire or construct, and thereafter did acquire or construct, a cracking plant at Cushing, Oklahoma, and certain oil and gas lands and leases, all of which were then highly desirable for use by the Oil Company but which the Oil Company was unable to purchase or construct by reason of its inability at the time to raise moneys for such purpose except by advances by the Debtor, and because of the fact that the Debtor did not feel justified at that time in advancing to the Oil Company for an extended period the very large sum, namely, approximately $2,500,000, required and thereafter expended for such purchase or construction, particularly in view of the existence of a first mortgage upon all property of the Oil Company, under which mortgage $9,884,600 principal amount of bonds of the Oil Company were then outstanding, and of other indebtedness of the Oil Company.

13. Stating therein that it recognized the urgent necessity for an early termination of the litigation of the Oil Company (existing by reason of the claim of the Debtor and the answer and counter-claim of the Trustee of the Oil Company) the Debtor, under date of March 8, 1935, made to the Trustee an offering in writing, as a compromise and settlement only, to receive in satisfaction of its claim (a) the principal sum of $2,376,076.31; interest on said principal sum at the rate of five per cent per annum from the dates of the several advances constituting said sum to February 28, 1933, amounting to $407,886.18, and in addition thereto interest on said principal sum of $2,376,076.31 at the rate of five per cent per annum from February 28, 1933, to the date of entry of judgment on the offer; the aggregate of such amounts to be on a parity with the $10,000,000 principal amount of convertible gold notes of the Oil Company, dated March 1, 1928, and interest thereon at the rate per annum which might be allowed by the court from March 1, 1933, to date of entry of judgment on the offer, and with other indebtedness of the Oil Company to other persons; and (b) the sum of $1,585,485.18 with interest on $1,597,985.18 from February 28, 1933 at five per cent per annum simple interest to August 5, 1933, and interest on $1,585,485.18 at five per cent simple interest per annum from August 5, 1933, to the date of entry of judgment on the offer, which judgment for the principal sum of $1,585,485.18 with interest as specified was to be subordinated to the claims of all other creditors of the Oil Company, including the holders of the $10,000,000 note issue. The Debtor also offered, as a part of the compromise, to cause the entire issued and outstanding common stock of the Refining Company, consisting of 9,000 shares having a ledger value on the books of the Debtor of $650,000, to be transferred to the Trustee of the Oil Company, or to that corporation, and to cause to be conveyed to the Trustee of the Oil Company, or to that corporation, as might be determined, a deed to certain land held in the name of a trustee under a trust claimed to be for the benefit of the Debtor, together with the improvements thereon. The Debtor also offered, as a part of the compromise, to surrender a promissory note of the Refining Company, dated January 1, 1931, in the principal sum of $1,894,592.11 (subsequently reduced by a payment thereon of $12,500) and all other claims of the Debtor against the Refining Company. Under date of March

8, 1935, the Trustee recommended to the court that the offer be accepted and approved.

14. On September 3, 1936, there were on deposit with the Reorganization Committee written authorization or approvals of the Reorganization Plan by the holders of more than 82% of the outstanding Convertible Gold Notes of the Oil Company and of more than 65% of the outstanding shares of $7 Cumulative Convertible Preferred Stock of the Oil Company.

15. On or about May 11, 1935, a report was filed by the Special Master in the District Court of the United States for the Northern District of Oklahoma whereby, among other things, the Special Master found that the offer of the Debtor of March 8, 1935, was for the best interests of the estate of the Oil Company and of all persons interested therein and the Special Master recommended that the court enter an order approving and accepting the proposed offer of compromise and make and enter a decree settling the respective rights of the Debtor herein and of the Oil Company in accordance therewith.

16. At a hearing held before the District Court of the United States for the Northern District of Oklahoma on September 23, 1935, upon the question of whether or not the report of the Special Master should be approved, objections to the approval of the report were made in behalf of the holders of a relatively small number of shares of the $7 Cumulative Convertible Preferred Stock of the Oil Company. An order was entered by the court that the Special Master's recommendations be rejected and that the compromise agreement be disapproved. Subsequently, the Debtor withdrew its offer of compromise and settlement.

17. On February 17, 1936, the following order was entered by the District Court of the United States for the Northern District of Oklahoma:

"In the District Court of the United States for the Northern District of Oklahoma.

In the matter of Deep Rock Oil Corporation, a corporation, Debtor, In Bankruptcy, No. 2318 consolidated.

Order No. 116.

"Now on this, the 17th day of February, 1936, same being a regular day of a regular term of this court at Tulsa, Okla-

homa, It Is Ordered that the Reorganization Committee of the Debtor, Deep Rock Oil Corporation, submit to this court within forty-five (45) days from this date (unless time is extended by order of this court) an amended plan for the reorganization of the Debtor along with, and as a basis thereof, a new offer by the Standard Gas and Electric Company under the authority of the United States Court for the District of the State of Delaware for the compromise and settlement of all its claims against the Debtor, to be considered by this court along with the amended plan of reorganization, upon notice to stockholders and creditors to be given as required by Section 77b of the National Bankruptcy Act.

(Signed) FRANKLIN E. KENNAMER, Judge."

By subsequent orders of that court the date specified in the foregoing order for the filing in that court of an amended plan for the reorganization of the Oil Company and of a new offer by the Debtor herein for the compromise and settlement of its claims against the Oil Company was extended to September 21, 1936.

18. The Reorganization Committee has informed the Debtor herein that it intends to suggest to the holders of the Convertible Gold Notes and $7 Cumulative Convertible Preferred Stock and to other creditors of the Oil Company, and Amended Plan of Reorganization of the Oil Company, a copy of which, together with a copy of a proposed communication by the Reorganization Committee to such security-holders and creditors, is annexed hereto as Exhibit C. Reference is made to said Exhibit C for the full terms, provisions and conditions of the Amended Plan of Reorganization. There is quoted below a summary of the Amended Plan of Reorganization and of the principal differences between the original reorganization plan and the Amended Plan of Reorganization as given in the proposed communication from the Reorganization Committee to the security-holders and other creditors (the Oil Company being referred to therein as "the Corporation"):

"Brief Outline of Amended Plan.

"The Amended Plan of Reorganization must be read in its entirety to learn its exact terms. It provides in substance for the formation of a new Company to acquire the business and assets of the Corporation, the assumption by the New

Company of the expenses of reorganization and certain other debts, expenses and liabilities referred to in the Amended Plan and the issuance by the New Company of the following securities:

| Type of Security | To be Authorized and Issued |
|---|---|
| Fifteen-year 6% Cumulative Income Sinking Fund Debentures | $10,000,000* |
| Common Stock (without par value) | 520,000 shares* |

*Subject to be increased to meet the requirements of paragraph 8 (d) of the Amended Plan.

"Under the Amended Plan the holders of the Convertible Gold Notes will receive all of the new Income Debentures, 7½% of the new common stock and $600,000 in cash, each individual noteholder receiving for each $500 principal amount of notes held:

$500 principal amount of new Income Debentures,
2 shares of New Common Stock and
$ 30 in cash.

"The holders of the Preferred Stock of the Corporation will receive over 19% of the new common stock, each individual preferred stockholder receiving 2 shares of new common stock for each share of preferred stock now held.

"Standard, in full satisfaction of all indebtedness owing to it by the Corporation and by Deep Rock Oil and Refining Company, and in consideration of the transfer to the New Company of all capital stock of Deep Rock Oil and Refining Company held by Standard and of the land upon which the cracking plant is situated, together with the improvements thereon, will receive 380,000 shares of the new common stock, being approximately 73% of such stock."

* * * * * * * * *

"Principal Differences Between Original Plan and Amended Plan.

"Under the original plan, the holders of the Convertible Gold Notes were to receive $10,000,000 principal amount of income Debentures and 15% of the common stock of the New Company, Standard was to receive 25,000 shares of new $7 Cumulative Preferred Stock and approximately 75% of

the new common stock and the holders of the Preferred Stock of the Corporation were to receive approximately 10% of the common stock of the New Company.

"Under the Amended Plan the issuance of new preferred stock to Standard has been eliminated and the participation of the preferred stockholders of the Corporation in the common stock of the New Company has been doubled.

"While the holders of the Convertible Gold Notes will receive under the Amended Plan a smaller percentage of the common stock of the New Company, such common stock is not subject to a prior issue of preferred stock as it was under the original plan. In addition, the Amended Plan, unlike the original plan, provides that the Noteholders shall receive $600,000 in cash; that no dividends may be paid by the New Company until half of the Income Debentures have been retired and that thereafter no cash dividends may be paid unless an amount equal thereto be paid into a sinking fund to retire the debentures. These provisions are more favorable to the holders of the Convertible Gold Notes than the corresponding provisions of the original plan and should result in a more rapid retirement of the Income Debentures of the New Company than would have resulted under the original plan.

"Instead of receiving 25,000 shares of new $7 Convertible Preferred Stock and approximately 75% of the common stock of the New Company, as provided in the original plan, Standard, under the Amended Plan, receives no preferred stock and slightly less than 75% of the common stock of the New Company. Under the Amended Plan the court will retain general jurisdiction over the operations of the New Company until the Income Debentures have been reduced to $5,000,000 and the court, during such period will name the chief executive officer of the New Company and fix his salary."

19. A copy of a statement by the Trustee of the Oil Company of its earnings and expenses for the period beginning with the month of March, 1933, and ending with the month of July, 1936, is annexed hereto, marked Exhibit D. A copy of a statement by the Trustee of the Oil Company of a comparative balance sheet of the Oil Company as of March 1, 1933, and July 31, 1936, respectively, is annexed hereto, marked Exhibit E.

20. The aforesaid Amended Plan of Reorganization is

predicated upon the making by the Debtor of a new offer of compromise of its claim in substantially the form annexed as "Appendix I" (see page 13, of Exhibit C) to the proposed communication set forth in Exhibit C annexed hereto. The proposed new offer of compromise contemplates the allowance of the claim of the Debtor against the Oil Company for approximately $5,000,000, of which $1,500,000 shall be held to rank on a parity with the Convertible Gold Notes of the Oil Company, and further provides for the transfer by the Debtor to the Trustee of the Oil Company or to the new Company proposed to result from the reorganization of the Oil Company of all of the capital stock of the Refining Company, together with all claims of any kind and character against the Refining Company held by the Debtor, and of the land upon which the cracking plant owned by the Refining Company and leased by it to the Oil Company is situated, with the improvements thereon. It is contemplated that the new offer of compromise will be conditioned upon the confirmation by the District Court of the United States for the Northern District of Oklahoma, within ninety days from the delivery of the new offer of compromise by the Debtor to the Trustee for the Oil Company, of a plan of reorganization of the Oil Company acceptable to the Debtor and upon the affirmance of such order of confirmation and plan of reorganization on appeal if an appeal therefrom be taken.

21. At meetings of the Board of Directors of the Debtor full consideration has been given to the question of whether or not such a new offer of compromise should be made by the Debtor and of whether or not the Debtor should accept the proposed Amended Plan of Reorganization. After such consideration, resolutions were duly adopted by the Board authorizing the filing of a petition in behalf of the Debtor to this court for authority to make such a new offer of compromise and to accept such an Amended Plan of Reorganization and authorizing and directing the officers of the Debtor, if an order granting such petition should be entered by this court, to execute any and all such instruments and to do any and all such other acts and things as may, in their judgment, be necessary to carry out said order, said new offer of compromise and said Amended Plan of Reorganization.

22. The Debtor avers that, in its judgment, it is to the best interests of the Debtor that it make such a new offer of

compromise and that it accept such an Amended Plan of Reorganization. particularly to the end that long, vexatious and expensive litigation may be avoided and a prompt reorganization be had of the Oil Company.

Wherefore, The Debtor Respectfully Prays that this court may make an order or orders authorizing the Debtor to execute and to deliver to the aforesaid Deep Rock Oil Corporation a new offer of compromise of the claim of the Debtor against said Deep Rock Oil Corporation in substantially the form of the instrument appearing as Appendix I to the proposed communication from the aforesaid Reorganization Committee to the creditors and other holders of securities of Deep Rock Oil Corporation in the aforesaid Exhibit C annexed hereto (with specific authority to the Debtor, its Board of Directors and officers to make such conditions as they may respectively, deem advisable as to the time within, and conditions upon which, such offer must be accepted), authorizing the Debtor to accept an Amended Plan of Reorganization of said Deep Rock Oil Corporation in substantially the form set forth in the aforesaid Exhibit C annexed hereto and authorizing the Debtor, its officers and agents to execute any and all such instruments and to do any and all such other acts or things as may be necessary or advisable for such purposes.

STANDARD GAS AND ELECTRIC COMPANY,
By B. W. LYNCH,
President.

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Attorneys for Debtor.

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[Clerk's Note:—The following described exhibits are omitted here pursuant to praecipe.]

Exhibit A.

(This exhibit is Standard's claim and appears in this record as "Proof of Debt Due Corporation," filed June 22, 1934.)

Exhibit B.

(This exhibit is a copy of the original Plan of Reorganization, Deposit Agreement and Communication by the Reorganization Committee to the Security Holders and appears in this record as Reorganization Committee's Exhibit #2.)

Exhibit C.

(This exhibit is a copy of the Amended Plan of Reorganization and accompanying explanatory letter by the Reorganization Committee to the security holders and appears in this record in Reorganization Committee's Exhibit #1.)

Exhibit D.

(This exhibit is an Income Statement of Deep Rock Oil Corporation from March, 1933, through July, 1936, inclusive, and is included in this record as a part of Intervener's Exhibit #14.)

Exhibit E.

(This exhibit is a copy of a statement by the Trustee of a comparative Balance Sheet of Deep Rock Oil Corporation as of March 1, 1933, and July 31, 1936, respectively.)

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State of Illinois, County of Cook, ss.

Be It Remembered that on this 16th day of September, A. D. 1936, personally came before me the undersigned, a Notary Public for the State and County aforesaid, B. W. Lynch, who being by me duly sworn according to law, deposes and says: That he is the President of Standard Gas and Electric Company, the Debtor above-named; that he has read the foregoing petition and is familiar with the contents thereof and that the same is true to the best of his knowledge, information and belief.

B. W. LYNCH.

Sworn to and subscribed before me the day and year aforesaid. C. M. Mader, Notary Public in and for the County of Cook, State of Illinois. (Notarial Seal) My commission expires May 10, 1937.

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In the District Court of the United States in and for the Northern District of Oklahoma. Special March 1936 Term —Bankruptcy Session.

Tulsa, Oklahoma, September 19, 1936.

Court convened pursuant to adjournment, September 19, 1936. Present: Hon. F. E. Kennamer, Judge, U. S. District Court. H. P. Warfield, Clerk, U. S. District Court.

Thereupon, the following among other proceedings were had and entered, to-wit:

In the Matter of Deep Rock Oil Corporation, a corporation, Debtor. No. 2318 Bankruptcy, Consolidated.

Now on this 19th day of September, 1936, it is ordered by the court that hearing on Plan for Reorganization and claim of Standard Gas and Electric Company be passed until the further order of the court. (F. E. K., Judge.)

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Petition of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee, for Authority and Directions in Reference to the Promulgation, Distribution and Solicitation of Acceptances of an Amended Plan of Reorganization. No. 137.

To the Honorable, the Judge of the District Court of the United States for the Northern District of Oklahoma:

Your petitioners, John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee, acting under and pursuant to the terms of a Deposit Agreement dated August 9, 1934, respectfully allege and show unto the court as follows:

1. Deep Rock Oil Corporation, Debtor herein, filed on June 7, 1934, its answer in the above-entitled proceeding, pursuant to Section 77b of the Bankruptcy Act of the United States, as amended, and this court thereupon entered an order approving the answer of the Debtor, as properly filed under said Section 77b and appointed H. N. Greis as temporary trustee, and that thereafter, on July 9, 1934, this court appointed said H. N. Greis as permanent trustee.

2. Thereafter, and on the 9th day of August, A. D. 1934, the Debtor, Deep Rock Oil Corporation, filed its verified petition, together with a Plan of Reorganization, which said Plan, pursuant to the provisions of Section 77b was duly proposed herein on August 20, 1934, at a hearing duly noticed for its consideration.

3. That said Plan of Reorganization duly proposed by said Debtor, Deep Rock Oil Corporation, under and pursuant to the order of this court, entered August 20, 1934, was in the form as prepared by the undersigned Committee.

4. This court, by order dated August 20, 1934, found to be fair and approved the terms and conditions of the Deposit Agreement (including the forms of certificate of deposit attached thereto), executed by the undersigned Committee as of August 9, 1934, and this court, by said order, permitted and authorized the undersigned Committee to announce, publish and submit to the creditors and security holders of the Debtor the Plan of Reorganization proposed herein by said Debtor on August 20, 1934, as aforesaid.

5. By said order dated August 20, 1934, this court further ordered and directed that holders of securities of and claims against the Debtor might evidence their consent to and acceptance of the said Plan of Reorganization by becoming depositors with the undersigned Committee under the terms and conditions of said Deposit Agreement dated as of August 9, 1934.

6. That pursuant to the said order entered by this court of August 20, 1934, the undersigned Committee submitted to the creditors and security holders of the Debtor, Deep Rock Oil Corporation, said Plan of Reorganization filed herein by the Debtor on August 9, 1934, as aforesaid, and as of October 30, 1935, the holders of 82% of the outstanding convertible Gold Notes of the Debtor, and the holders of 65% of the Seven Dollar Cumulative Convertible preferred stock of the Debtor have accepted and consented to the terms and provisions of said Plan of Reorganization by the deposit of their securities with the undersigned Committee or its depositaries under and pursuant to the terms of said Deposit Agreement dated as of August 9, 1934.

7. That Section 2 of said Plan provided as follows:

"The plan has been prepared upon the theory that Standard (Standard Gas and Electric Company) will establish a valid claim for at least $5,000,000.00 of which a substantial portion shall be held to rank equally with the convertible gold notes. As the Standard claim has not been determined by the court, the holders of convertible gold notes who accept the plan before such determination will be given an opportunity to consider the fairness of the plan in the light of the actual determination. Therefore, upon determination by the court of the claim of Standard, notice will be given of the terms of such determination to such assenting holders of convertible gold notes who will be given an opportunity to reconsider the plan

and to withdraw their assent *without expense* if they desire to do so."

The announcement by the Undersigned Reorganization Committee of the said Plan of Reorganization stated to all creditors and stockholders of the Debtor that the holders of Convertible Gold Notes who assented to the Plan before adjudication and determination by the court of the claim of Standard Gas and Electric Company, filed herein in the amount of $9,342,642.37, would be given an opportunity in accordance with the Plan to consider the fairness of the Plan in the light of the actual determination of the Standard claim by the court.

8. That Standard Gas and Electric Company, pursuant to the approval and direction of the District Court of the United States for the District of Delaware, by order entered November 2, 1936, has proposed herein to compromise and settle its claim for $9,342,642.37 for the sum of approximately $5,000,000, of which $1,500,000 only shall be held to rank upon a parity with the $10,000,000 principal amount now outstanding of Convertible Gold Notes of the Debtor; that said proposal of compromise and settlement by Standard, among other things, is conditioned upon final confirmation by this court, on or before February 8, 1937, of a Plan of Reorganization acceptable to Standard and said proposal of compromise and settlement includes an expression by Standard of its acceptance of the terms and provisions of a certain Amended Plan of Reorganization attached to said proposal of compromise.

9. The Debtor herein, under date of November 9, 1936, has filed certain Amendments to and Modifications of the Plan of Reorganization filed herein on August 9, 1934, as aforesaid, and said Plan of Reorganization as so amended and modified is herein referred to as the "Amended Plan of Reorganization" and the Debtor has made and filed herein said Amendments and Modifications of the Plan of Reorganization filed herein August 9, 1934, by the filing herein of said Amended Plan of Reorganization. That the Amended Plan of Reorganization filed herein by the Debtor under date of November 9, 1936, is the Amended Plan of Reorganization accepted by Standard Gas and Electric Company in connection with its proposal to compromise and settle its claim for $9,342,642.37 as aforesaid.

10. That the Amended Plan of Reorganization filed herein

by the Debtor, as aforesaid, and accepted by Standard Gas and Electric Company has been prepared by the undersigned Committee and it is necessary and proper, under the terms and provisions of Section 77b of the Bankruptcy Act, that said Amended Plan of Reorganization be submitted to the creditors and stockholders of the Debtor, Deep Rock Oil Corporation, in order that they may determine whether or not to accept said Plan in the manner provided by said Section 77b and directed by this court.

11. The undersigned members of the Reorganization Committee, acting under and pursuant to the terms of the Deposit Agreement dated August 9, 1934, and pursuant to the permission and authority of this court by order entered August 20, 1934, desire to solicit from the creditors and stockholders of the Debtor, acceptances and consents to the Amended Plan of Reorganization, and your petitioners desire and intend to publish the Amended Plan of Reorganization by circularization and distribution thereof among all known creditors and preferred stockholders of the Debtor entitled to participation thereunder, and thereupon to call for the deposit under said Deposit Agreement of the claims, Convertible Gold Notes and preferred stock of the Debtor in the Amended Plan of Reorganization described as being entitled to participation thereunder, to evidence acceptance of the Amended Plan of Reorganization. Your petitioners, likewise, intend to cause the depositaries of their Committee named in the said Deposit Agreement to issue certificates of deposit in the form attached to said Deposit Agreement to the creditors and preferred stockholders entitled to participation under the said Amended Reorganization Plan who accept the Amended Plan.

12. In the event of a deposit of claims and securities in an amount sufficient, under the provisions of Section 77b, to justify the confirmation of the Amended Plan of Reorganization, and if said Amended Plan is confirmed by this court, your petitioners intend and desire, in accordance with the provisions of said Amended Plan as more fully set forth therein, and under the supervision, direction and control of this court, and on behalf of the creditors and security holders who have or may become and remain depositors under the provisions of said Deposit Agreement, to take or cause to be taken all steps necessary and proper for the consummation of the Amended Plan and the issuance of securities to the creditors and preferred stock-

holders of the Debtor, as provided in said Amended Plan, all upon the terms and conditions and upon the basis of exchange as provided in said Amended Plan.

13. Your petitioners believe and allege that the Amended Plan of Reorganization should be submitted to the creditors and preferred stockholders of the Debtor, Deep Rock Oil Corporation, and that the reorganization of said Debtor pursuant to said Amended Plan is for and in the best interests of such creditors and preferred stockholders.

14. Your petitioners further allege that the said Amended Plan is proposed by the Debtor and this petition has been filed herein by the undersigned Committee in good faith and that your petitioners shall solicit acceptances of said Amended Plan of Reorganization only upon such terms and by the use of such means and promises permitted and not forbidden by the Bankruptcy Act and as directed by the court. Your petitioners desire therefore that this court shall continue to exercise its jurisdiction and supervision of the Deposit Agreement dated August 9, 1934, and of the activities of your petitioners in connection with the announcement of the Amended Plan of Reorganization and in connection with the solicitation and deposit of securities and claims, and the issuance and distribution of certificates of deposit by your petitioners or their depositaries.

15. That since the Plan of Reorganization filed herein by the Debtor on August 9, 1934, has been promulgated pursuant to the order of this court entered August 20, 1934, by the undersigned Committee prior to the adjudication of the claim of Standard Gas and Electric Company, and since said Plan stated that it had been prepared upon the theory that Standard would establish a valid claim for at least $5,000,000, of which a substantial portion would be held to rank on a parity with the Convertible Gold Notes; and since said original Plan provided that holders of Convertible Gold Notes accepting the Plan prior to the determination and adjudication of the Standard claim would be given an opportunity to consider the fairness of the Plan in the light of the actual adjudication, and since the Amended Plan of Reorganization filed and proposed herein by the Debtor has been prepared upon the theory that the proposed compromise and settlement of the claim of Standard Gas and Electric Company will be approved by this court, and since said Amended Plan provides that if the proposed compromise of the claim of Standard Gas and Electric Company is not ap-

proved on substantially the terms set forth therein, the holders of Convertible Gold Notes of the Debtor, and the holders of $7 Cumulative Convertible Preferred Stock of the Debtor who accept the Amended Plan will be given an opportunity to withdraw their acceptances without expense, the undersigned Committee believes and alleges that it is fair, reasonable and proper that all creditors and stockholders of the Debtor who have previously assented to and accepted the original Plan of Reorganization filed herein by the Debtor on August 9, 1934, by the deposit of their securities with the undersigned Committee or its depositaries be given an opportunity to consider the Amended Plan of Reorganization and the proposed compromise of the claim of Standard Gas and Electric Company and to withdraw their acceptances and deposited securities if they do not wish to accept the Amended Plan or if they do not approve the proposed compromise and settlement of the Standard claim, if they desire to do so.

Wherefore, your petitioners pray:

1. That this court continue to exercise its supervision, control and jurisdiction over the activities of your petitioners and over the publication and distribution by this Committee of the Amended Plan of Reorganization filed and proposed herein by the Debtor and over the deposit with the undersigned Committee or its depositaries under the said Deposit Agreement dated August 9, 1934, of securities of the Debtor, and claims against the Debtor mentioned and entitled to participation under the Amended Plan of Reorganization, and that this court continue to exercise supervision, control and jurisdiction over the issuance of certificates of deposit under said Deposit Agreement by your petitioners or their depositaries in respect of such securities and claims thus deposited, and that this court will continue to supervise all activities of your petitioners taken in connection with or for the purpose of publishing, announcing and consummating said Amended Plan of Reorganization.

2. That this court may enter its order directing and authorizing the undersigned Committee forthwith to promulgate and distribute among the creditors and security holders of the Debtor, Deep Rock Oil Corporation, the Amended Plan of Reorganization filed and proposed herein by the Debtor, accompanied by the written offer and proposal of Standard Gas and Electric Company to compromise and settle its claim, and that this court may direct, authorize and approve the solicitation by the

undersigned Committee from the security holders and creditors of the Debtor, acceptances of said Amended Plan of Reorganization and deposits of securities with the undersigned Committee or their depositaries in acceptance of said Amended Plan of Reorganization and under and pursuant to the terms and provisions of the Deposit Agreement dated as of August 9, 1934, heretofore approved by order of this court entered August 20, 1934.

3. That this court, by order, may provide, decree and adjudge that all creditors and security holders of the Debtor, including the holders of Convertible Gold Notes and $7 Cumulative Convertible Preferred Stock who have heretofore accepted the Plan of Reorganization filed herein by the Debtor on August 9, 1934, and deposited their securities with the undersigned Committee or their depositaries, may, without expense, withdraw such acceptances and deposited securities within a period of twenty (20) days from the date of the order of the court on this petition if they do not desire to accept the Amended Plan of Reorganization or to approve the proposed compromise and settlement of the claim of Standard Gas and Electric Company and, further ordering, adjudging and decreeing that all security holders and creditors of the Debtor, Deep Rock Oil Corporation who do not withdraw within said period the securities heretofore deposited by them with the undersigned Committee or its depositaries shall be deemed to have accepted the Amended Plan of Reorganization and to have approved the proposed compromise and settlement of the claim of Standard Gas and Electric Company.

4. That this court may set a date for hearing on the consideration and confirmation of the Amended Plan of Reorganization filed and proposed herein by the Debtor, at which hearing the court shall consider and dispose of all objections which may be made or filed herein to said Amended Plan of Reorganization, and at which hearing this court may consider and dispose of all changes, modifications or amendments of said Amended Plan that may be suggested or proposed herein.

5. That this court may enter its order authorizing and permitting the undersigned Committee to make such changes and modifications in the terms and conditions of the Deposit Agreement, dated August 9, 1934, and the accompanying certificates of deposit as said Reorganization Committee may deem necessary and desirable by substituting for each and every refer-

ence therein to the Plan of Reorganization a reference to the Amended Plan of Reorganization, and that this court may direct and find that such changes do not affect the terms and conditions of said Deposit Agreement dated August 9, 1934, or said accompanying certificates of deposit, which terms and conditions were approved as fair by this court by the order entered herein August 20, 1934, and that this court may find to be fair and approve the terms and provisions of said Deposit Agreement dated August 9, 1934, and said certificates of deposit as thus amended.

6. That this court may direct the Debtor to give notice to all creditors and stockholders of the Debtor of the hearing to be held for the confirmation of the said Amended Plan of Reorganization in accordance with the provisions of Section 77b of the Bankruptcy Act as amended, and that this court, at such hearing, may find said Amended Plan to be feasible and fair and may approve and confirm said Amended Plan of Reorganization.

7. That your petitioners may have such other and further relief in the premises as to this court may seem fitting and just.

Dated Nov. 6, 1936.

JOHN J. SHINNERS,
NEWTON P. FRYE,
ROBERT F. HOLDEN,
JOHN H. MASON,
GRAYSON M.-P. MURPHY,
and ALBERT J. ROBERTSON,
As a Reorganization Committee constituted by and under a Deposit Agreement dated August 9, 1934,

By JOHN J. SHINNERS, (Sgd)
Chairman.

State of Illinois, County of Cook, ss.

John J. Shinners, being first duly sworn, on his oath deposes and says that he is the Chairman of the Reorganization Committee referred to in the attached petition; that he signed said petition as such Chairman; that he is duly authorized to act for such Committee in this behalf, and that the statements made in said petition are true to the best of his knowledge, information and belief.

(Sgd) JOHN J. SHINNERS.

Subscribed and sworn to before me this 6th day of November, 1936. Catherine C. Brener, Notary Public. (Seal) My commission expires April 29, 1938.

Endorsed: Filed Nov. 9, 1936. H. P. Warfield, Clerk, U. S. District Court.

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Petition No. 137.

Now comes your petitioner, Deep Rock Oil Corporation, Debtor, in the above-entitled proceedings, and respectfully represents as follows:

1. That the Debtor filed in this court on June 7, 1934, its answer in the above-entitled proceeding, pursuant to Sections 77a and 77b of the Bankruptcy Act of the United States, as amended, and this court thereupon entered an order approving the answer of the Debtor, Deep Rock Oil Corporation, as properly filed under said Sections of the Bankruptcy Act, as amended, and appointed H. N. Greis as temporary trustee.

2. Thereafter, and on July 9, 1934, this court appointed H. N. Greis as permanent trustee in conformity with the provisions of Section 77b of the Bankruptcy Act, as amended.

3. Thereafter, and on August 9, 1934, the Debtor, Deep Rock Oil Corporation, filed its verified petition, together with a Plan of Reorganization, which said Plan was duly proposed on August 20 1934, at a hearing duly noticed for its consideration, in conformity with the requirements and provisions of Section 77b of the Bankruptcy Act, as amended, and with the orders of this court; the Plan of Reorganization as proposed by said Debtor was in the form as prepared by John J. Shinners, Newton P. Frye, Robert H. Holden, John H. Mason, Grayson M.-P. Murphy, and Albert J. Robertson, as a Reorganization Committee constituted by and under the terms of a certain deposit agreement dated August 9, 1934.

4. Section 2 of said Plan of Reorganization provided as follows:

"The plan has been prepared upon the theory that Standard (Standard Gas and Electric Company) will establish a valid claim for at least $5,000,000.00, of which a substantial portion shall be held to rank equally with the convertible gold notes. As the Standard claim has not been determined by the court, the holders of convertible gold notes who accept the

plan before such determination will be given an opportunity to consider the fairness of the plan in the light of the actual determination. Therefore, upon determination by the court of the claim of Standard, notice will be given of the terms of such determination to such assenting holders of convertible gold notes who will be given an opportunity to reconsider the plan and to withdraw their assents *without expense* if they desire to do so."

The announcement of the Plan of Reorganization by the Reorganization Committee above-named made pursuant to the approval and authority of this court stated to all creditors and stockholders of the Debtor that the holders of convertible gold notes who assented to the Plan before determination by the court of the Standard claim would be given an opportunity, in accordance with the Plan, to consider the fairness of the Plan in the light of the actual determination and adjudication of the Standard claim by the court.

5. That Standard Gas and Electric Company, pursuant to the approval and direction of the District Court of the United States for the District of Delaware, by order entered November 2, 1936, in proceedings entitled "In the Matter of Standard Gas and Electric Company, Debtor, No. 1204," will propose in writing herein a compromise and settlement of its claim filed in the amount of $9,342,642.37 with interest from February 28, 1933, for the sum of approximately $5,000,000.00, of which $1,500,000.00 only shall rank on a parity with the $10,000,000.00 principal amount of convertible gold notes of the undersigned Deep Rock Oil Corporation, Debtor herein, and that such proposal of compromise and settlement of the Standard claim as aforesaid will be conditioned, among other things, upon the final confirmation by this court on or before February 8, 1937, of a Plan of Reorganization acceptable to Standard Gas and Electric Company, and that said offer of compromise and settlement of the Standard claim will include the written acceptance by Standard Gas and Electric Company of the terms and provisions of the Plan of Reorganization proposed herein by the Debtor on August 9, 1934, as amended and modified and in the form attached hereto as Exhibit A, which said Plan of Reorganization, as so amended and modified, is named and herein referred to as the Amended Plan of Reorganization for the undersigned Deep Rock Oil Corporation, Debtor.

6. That the said Reorganization Committee has prepared amendments to, and modifications of, the Plan of Reorganization duly proposed herein by the Debtor on August 9, 1934, as aforesaid, and the Debtor has duly adopted and approved such modifications and amendments to said Plan of Reorganization, and desires forthwith to modify and amend said Plan of Reorganization in accordance therewith by the filing and proposal herein, in accordance with the provisions of Section 77b of the Bankruptcy Act, of the Amended Plan of Reorganization in the form attached hereto and marked Exhibit A as aforesaid; that said amendments and modifications to the Plan of Reorganization and the Amended Plan of Reorganization have been duly adopted and approved, and the filing and proposal herein of the amended Plan of Reorganization duly authorized and directed by the Board of Directors of the Debtor, at a meeting duly called and held, and the proper officers of the Debtor have been authorized to execute, verify and cause to be filed this petition on behalf of the Debtor.

Wherefore, Your petitioner, the Debtor, Deep Rock Oil Corporation, respectfully prays:

(a) That an order may be entered herein approving, authorizing and permitting the Debtor to amend and modify the Plan of Reorganization proposed herein by the Debtor on August 9, 1934, by the filing and proposal of the Amended Plan of Reorganization attached hereto and marked Exhibit A.

(b) That an order may be entered herein providing that all creditors and stockholders of the undersigned Debtor who have heretofore accepted the Plan of Reorganization proposed herein by the Debtor on August 9, 1934, by the deposit of securities issued by the Debtor, including convertible gold notes and $7 Cumulative convertible preferred stock with said Reorganization Committee or its depositaries under the terms of a certain deposit agreement dated August 9, 1934, may be permitted to withdraw without expense the securities so deposited within twenty days from the date of the order hereby sought if they, or any of them, do not desire to accept the Amended Plan of Reorganization attached hereto as Exhibit A, or do not desire to approve the offer to compromise and settle the claim of Standard Gas and Electric Company herein

mentioned and described, and that such order shall provide that all creditors, security holders and stockholders of the Debtor who have heretofore deposited their securities with the Reorganization Committee or its depositaries as aforesaid and who do not withdraw the securities so deposited within said twenty-day period, shall thereupon be deemed to have accepted the Amended Plan of Reorganization attached hereto as Exhibit A and to have approved the terms and provisions of the proposal to compromise and settle the claim of Standard Gas and Electric Company aforesaid.

(c) That an order may be entered herein requiring all objections to the proposal and confirmation of the Amended Plan of Reorganization and to the approval of the proposal made by Standard Gas & Electric Company to compromise and settle its claim and all suggested amendments or modifications of said Amended Plan to be filed in writing with the Trustee or the Clerk of this court on or before a date certain to be fixed by the court and setting a time and place for a hearing on the following matters:

(1) Consideration and approval of the written proposal of Standard Gas and Electric Company filed herein on November 9, 1936, to compromise and settle its claim, and for the adjudication of said claim in the amount and upon the terms so proposed;

(2) Consideration and determination of the proposal and confirmation of the Amended Plan of Reorganization and the disposition of all objections to said Plan that may be presented or filed herein, and the disposition of all modifications or amendments to said Amended Plan that may be suggested, filed or proposed herein;

(3) Consideration of and directions to fix and determine the procedure, method and manner pursuant to the provisions of Section 77b of the Bankruptcy Act, as amended, for the consummation and fulfillment of said Amended Plan of Reorganization;

(4) Consideration of the making of such other and further orders by the court as may be authorized by Section 77b of the Bankruptcy Act, as amended.

(d) That an order may be entered herein directing the

Debtor to give such notice of the above hearing as may be required and directed by the court.

DEEP ROCK OIL CORPORATION,
By B. L. MAJEWSKI, Vice President.
W. F. SEMPLE, (Sgd)
Attorney for Debtor.

State of Illinois, County of Cook, ss.

B. L. Majewski being first duly sworn, on his oath deposes and says: that he is the Vice President of Deep Rock Oil Corporation, Debtor, which is the petitioner mentioned and described in the foregoing petition; that he has read the said petition and knows the contents thereof, and that the statements contained in said petition are true, to the best of his knowledge, information and belief; that he is duly authorized on behalf of said Debtor to execute said petition and to make this affidavit and to file and propose the Amended Plan of Reorganization attached to this petition as Exhibit A.

B. L. MAJEWSKI.

Subscribed and sworn to before me this 7th day of November, A. D. 1936. C. M. Mader, Notary Public. (Seal) My Commission expires May 10, 1937.

Endorsed: Filed Nov. 9, 1936. H. P. Warfield, Clerk, U. S. District Court.

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Exhibit A: [Clerk's Note.]

(This Exhibit is a copy of the Amended Plan of Reorganization and appears in this Record as a part of Reorganization Committee's Exhibit #1. Omitted pursuant to praecipe)

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Order No. 137.

This cause coming on to be heard on the petition of the Debtor, Deep Rock Oil Corporation, this day filed herein and on the motion of Mr. William F. Semple, attorney for the Debtor, and on the petition of Messrs. John J. Shinner, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertsor, as a Reorganization Committee constituted by and acting under a certain Deposit Agreement dated as of August 9, 1934, this day filed herein and on the motion of Messrs. Biddison, Campbell & Biddison, and

Messrs. Cutting, Moore & Sidley, attorneys for said Reorganization Committee, the court finding that notice of these motions has been duly served on all parties entitled to notice herein, and the court having examined said petitions of the Debtor and Reorganization Committee, and it appearing to the court that the Debtor desires to make certain amendments to and modifications of the Plan of Reorganization heretofore filed herein by the Debtor on August 9, 1934, and duly proposed herein on August 20, 1934, through and by the proposal and filing of an Amended Plan of Reorganization in the form attached to the petition of the Debtor this day filed herein as Exhibit A, and it appearing to the court that the Reorganization Committee desires to promulgate and distribute said Amended Plan of Reorganization and to solicit acceptances thereof from and deposit of securities by the creditors and security holders of Deep Rock Oil Corporation, Debtor, and that said Reorganization Committee desires that its activities be conducted under the supervision, control and jurisdiction of this court, and pursuant to the orders and directions of this court, and the court having heard the arguments of counsel and being fully advised in the premises, it is, therefore, found, ordered, adjudged and decreed:

1. The action of the Debtor in making amendments to and modifications of the Plan of Reorganization heretofore filed herein by the Debtor on August 9, 1934, and duly proposed on August 20, 1934, by and through the filing of an Amended Plan of Reorganization is hereby approved and ratified and found to comply with the terms and provisions of Section 77b of the Bankruptcy Act, as amended.

2. The court finds that under and pursuant to the provisions of Section 77b of the Bankruptcy Act, as amended, it is necessary and proper that said Plan of Reorganization heretofore proposed herein by the Debtor and filed herein on August 9, 1934, as amended and modified by this order (hereinafter named and referred to as the "Amended Plan of Reorganization") should be submitted by the Reorganization Committee to the creditors and security holders of Deep Rock Oil Corporation, Debtor, for their consideration and acceptance or disapproval.

3. That since the Plan of Reorganization heretofore proposed herein by the Debtor and filed August 9, 1934, was pursuant to the order of this court entered August 20, 1934, pro-

mulgated and distributed by the Reorganization Committee, parties intervening herein, prior to the adjudication of the claim of Standard Gas and Electric Company, and since said original Plan stated that it had been prepared upon the theory that Standard would establish a valid claim for at least $5,000,000, of which a substantial portion would he held to rank on a parity with the Convertible Gold Notes, and since the said original Plan provided that holders of Convertible Gold Notes accepting the Plan prior to the determination and adjudication of the Standard claim, would be given an opportunity to consider the fairness of the Plan in the light of the actual adjudication, and since Standard Gas and Electric Company, on this date, has filed herein a written offer and proposal to compromise and settle its claim for $9,342,642.37, filed herein, for approximately $5,000,000, of which $1,500,000 shall be on a parity with the Convertible Gold Notes of the Debtor outstanding in the amount of $10,000,000, and has made such offer and proposal of compromise upon certain conditions, including the condition that this court shall finally confirm a Plan of Reorganization acceptable to Standard on or before February 8, 1937; and since said Amended Plan of Reorganization has been prepared upon the theory that the proposed compromise of the Standard claim will be approved by the court, and since the written offer and proposal of Standard to compromise and settle its claim as aforesaid includes an express acceptance by Standard of the terms and provisions of the Amended Plan of Reorganization, and since the Amended Plan of Reorganization, provides by its terms that the acceptance of the Plan by any creditor or stockholder affected thereby and entitled to participation under the terms of said Amended Plan of Reorganization includes an approval of the proposed compromise of the Standard claim, the court hereby orders and directs that the Amended Plan of Reorganization filed herein on November, 9 1936, by the Debtor shall, when distributed among the creditors and security holders of the Debtor by the Reorganization Committee, be accompanied *by a copy* of the written offer and proposal filed herein on November 9, 1936, by Standard Gas and Electric Company to compromise and settle its claim, and the court hereby finds that it is fair, reasonable and proper that all creditors and stockholders of the Debtor who have previously assented to and accepted the original Plan of Reorganization heretofore filed herein by the Debtor on August 9, 1934, and duly proposed herein on August 20, 1934, be given an op-

portunity to reconsider the Amended Plan of Reorganization in the light of the proposed offer by Standard to compromise and settle its claim, and that all creditors and stockholders of the Debtor who have heretofore accepted and assented to the original Plan of Reorganization as aforesaid by the deposit of their securities with the Reorganization Committee or their depositaries shall be given an opportunity to withdraw their acceptances of the original Plan of Reorganization and the securities so deposited, if they do not wish to accept the Amended Plan of Reorganization filed herein on November 9, 1936, by the Debtor or if they do not approve the proposed compromise and settlement of the claim of Standard Gas and Electric Company.

It is therefore ordered, adjudged and decreed that all of the creditors and stockholders of the Debtor who have heretofore accepted the Plan of Reorganization proposed herein by the Debtor on August 20, 1934, may file with the Reorganization Committee or their depositaries, the First National Bank of Chicago, 38 South Dearborn Street, Chicago, Illinois, and the Chase National Bank of the City of New York, 11 Broad Street, New York, New York, on or before December 5, 1936, a written request to withdraw their respective acceptances; and upon the filing of such written request and the surrender of Deposit receipts, properly endorsed, evidencing the deposit of their respective securities, the Reorganization Committee shall direct their said depositaries to return without expense the securities heretofore deposited.

It is further ordered that all creditors and stockholders who have heretofore accepted the Plan of Reorganization proposed herein by the Debtor on August 20, 1934, and who have heretofore deposited their securities with said Reorganization Committee or their depositaries above named, and who do not file such written request and surrender such Certificates of Deposit on or before December 5, 1936, as aforesaid, shall be deemed to have assented to and accepted the Amended Plan of Reorganization filed herein by the Debtor on November 9, 1936, and to have approved the proposed compromise and settlement of the claim of Standard Gas and Electric Company.

4. The Reorganization Committee, composed of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, and their successors, interveners herein, is hereby specifically authorized

and directed within five (5) days to mail to each of the creditors and stockholders of the Debtor known to said Committee, a copy of the Amended Plan of Reorganization filed herein by the Debtor on November 9, 1936, and a copy of the written offer and proposal of Standard Gas and Electric Company filed herein on November 9, 1936, to compromise and settle its claim against the Debtor, Deep Rock Oil Corporation; and to notify said creditors and stockholders who have heretofore accepted the said original Plan of Reorganization that they may, if they so desire, withdraw their acceptance of the said original Plan of Reorganization and their deposited securities by a written request so to do, accompanied by a surrender of their respective Certificates of Deposit, *property* endorsed, filed with the Reorganization Committee or their said depositaries, on or before December 5, 1936. The affidavit of the Secretary of the said Reorganization Committee shall be sufficient proof of compliance with this paragraph of this Order.

5. The Reorganization Committee is hereby authorized and permitted to make such changes and modifications in the terms and provisions of the Deposit Agreement dated August 9, 1934, and in the accompanying Certificates of Deposit as said Reorganization Committee may deem necessary and desirable, by substituting for each and every reference therein to the original Plan of Reorganization a reference to the Amended Plan of Reorganization. It is hereby found that such changes do not affect the terms and conditions of said Deposit Agreement dated August 9, 1934, or said accompanying Certificates of Deposit, which said terms and conditions were approved as fair by this court by order entered August 20, 1934; and the terms and provisions and each of them of said Deposit Agreement dated August 9, 1934, and said Certificates of Deposit as thus amended are hereby found to be fair and approved.

6. The Order entered herein on August 20, 1934, directing and permitting the solicitation from the creditors and stockholders of the Debtor by said Reorganization Committee of deposit of securities with said Committee or their depositaries to evidence the *acdeptance* of said original Plan of Reorganization, except as amended and supplemented by this Order, shall remain in full force and effect until the further order of the court; and the promulgation, distribution and announcement by the Reorganization Committee of the Amended Plan of Reorganization filed herein on November 9, 1936, by the Debtor,

and the distribution by said Committee of the written proposal of Standard Gas and Electric Company to compromise and settle its claim filed herein on November 9, 1936, and the solicitation by said Reorganization Committee of acceptances of said Amended Plan of Reorganization, and the issuance by the Reorganization Committee and their depositaries of Certificates of Deposit to creditors and stockholders of the Debtor who accept said Amended Plan of Reorganization, and the solicitation from the creditors and stockholders of the Debtor of approvals to the written offer of Standard Gas and Electric Company to compromise and settle its claim, and all activities and conduct by the said Reorganization Committee in the performance and furtherance of the directions, terms and provisions of this Order are hereby found and declared to be under the supervision, control and jurisdiction of this court and are in all respects approved and confirmed.

7. A hearing is hereby set for December 12, 1936, *1936*, at the opening of court in the forenoon, in the District Court of the United States for the Northern District of Oklahoma, in the Federal Building, at Tulsa, Oklahoma, before Honorable F. E. Kennamer, at which hearing or any adjournment thereof the court may consider and determine the following:

(a) Consideration and approval of the proposal by the Debtor of the Amended Plan of Reorganization filed herein on November 9, 1936, and the consideration and confirmation of said Amended Plan of Reorganization.

(b) Hearing and disposition of all objections made or filed herein by any party in interest entitled to object to any of the terms and provisions of said Amended Plan of Reorganization, and the consideration and disposition of any changes, amendments or modifications to said Amended Plan of Reorganization which may be filed or presented herein by any party in interest.

(c) The entry of any and all orders directing, fixing and determining the procedure, method and manner of carrying out, consummating and fulfilling the Amended Plan of Reorganization and all of its terms and provisions.

(d) Consideration of the making of such other and further orders by the court as may be authorized by Section 77b of the Bankruptcy Act as amended, and which may be deemed necessary, appropriate and proper by the court.

8. It is further ordered that all parties in interest desiring to object to the Amended Plan of Reorganization filed herein on November 9, 1936, and its confirmation, or to suggest changes in or modifications of said Amended Plan of Reorganization are hereby required and directed to file such objections or suggested changes and modifications in writing at the office of H. N. Greis, Trustee, at the Atlas Life Building, Tulsa, Oklahoma, or with the clerk of this court, on or before December 7, 1936.

9. The Debtor shall give notice of said hearing herein set for December 12, 1936, and of the requirement of this Order that objections to the Amended Plan and suggested changes or modifications thereof must be filed in writing as herein directed, in substantially the form attached to this Order, to all of its known creditors and stockholders by mailing a copy thereof to the last known home address or the last known place of business of said creditors and stockholders, as far as the same appear on the records of the Debtor or in the files of the clerk of this court, such notice to be mailed within five (5) days from the entry of this Order and by one publication thereof within five (5) days from the date of entry of this Order in a daily newspaper of general circulation printed in the English language published in the City of Tulsa, Oklahoma, and in a similar newspaper published in the City of Chicago, Illinois, and in a similar newspaper published in the City of New York. The affidavit of the Debtor shall be sufficient proof of compliance with this paragraph of this Order.

Enter:

(Seal). F. E. KENNAMER, Judge.

Dated: November 9, 1936.

Endorsed: Filed Nov. 9, 1936. H. P. Warfield, Clerk.

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Notice to Creditors, Stockholders and Claimants against the Debtor or any of Its Property:

Notice is hereby given that on November 9, 1936, Orders were entered by the District Court of the United States for the Northern District of Oklahoma, which specified, among other things, the following:

1. That all parties in interest desiring to object to an Amended Plan of Reorganization filed herein by the Debtor

on November 9, 1936, or its confirmation, or desiring to suggest changes in or modifications of said Amended Plan, shall file such objections or suggested changes or modifications in writing on or before December 7, 1936, at the office of H. N. Greis, Trustee, Atlas Life Building, Tulsa, Olkahoma, or with the clerk of this court at the Federal Building, Tulsa, Oklahoma, and that all parties in interest desiring to object to the approval of the written offer of Standard Gas and Electric Company filed herein on November 9, 1936, to compromise and settle its claim shall file such objections in writing on or before December 7, 1936, with H. N. Greis, Trustee herein, at his office in the Atlas Life Building, Tulsa, Oklahoma, or with the clerk of this court at the Federal Building, Tulsa, Oklahoma.

2. That a hearing was set for December 12, 1936, *1936* at the opening of court in the forenoon, in the United States District Court for the Northern District of Oklahoma, in the Federal Building, at Tulsa, Oklahoma, before the Honorable F. E. Kennamer, District Judge, at which hearing or any adjournment thereof the court shall hear and determine the following matters:

(a) Consideration and approval of the proposal by the Debtor of an Amended Plan of Reorganization filed herein on November 9, 1936, and for the consideration and confirmation of said Amended Plan of Reorganization.

(b) Hearing and disposition of all objections made or filed herein in writing on or before December 7, 1936, by any party in interest entitled to object to any of the terms and provisions of said Amended Plan of Reorganization, and the consideration and disposition of any changes, amendments or modifications to said Amended Plan of Reorganization which may be filed or presented herein in writing on or before December 7, 1936, by any party in interest, and the consideration and disposition of any objections to the approval of the proposal filed herein on November 9, 1936, of Standard Gas and Electric Company to compromise and settle its claim, which may be filed herein in writing on or before December 7, 1936, by any party in interest.

(c) The entry of any and all Orders directing, fixing and determining the procedure, method and manner of carrying

out, consummating and fulfilling the Amended Plan of Reorganization and all *if* its terms and provisions.

(d) Consideration of the making of such other and further Orders by the court as may be authorized by Section 77b of the Bankruptcy Act as amended, and which may be deemed necessary, appropriate and proper by the court.

All creditors and stockholders of Deep Rock Oil Corporation, and all claimants against any of its property may procure a copy of the Amended Plan of Reorganization to be considered for purposes of confirmation at the hearing set for December 12, 1936, and a copy of the written offer and proposal of the Standard Gas and Electric Company to compromise and settle its claim referred to in said Amended Plan of Reorganization, from the office of H. N. Greis, Trustee for Deep Rock Oil Corporation, Debtor, Atlas Life Building, Tulsa, Oklahoma, or from the Secretary of the Reorganization Committee, R. Miles Warner, Room 1100, 231 South LaSalle Street, Chicago, Illinois.

*Creditors and stockholders of the Debtor have a right to attend the above hearing, but are not required to do so.*

Dated, this 10th day of November, A. D. 1936.

DEEP ROCK OIL CORPORATION,
Debtor.

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Petition No. 138.

Now comes your petitioner Standard Gas and Electric Company, claimant in the above-entitled proceedings, and respectfully represents as follows:

1. Receivers were appointed on March 1, 1933, for Deep Rock Oil Corporation on a bill in equity filed by two stockholders, one of whom was also a creditor. After receivers were appointed Standard Gas and Electric Company (hereinafter referred to as "Standard") filed with the court its claim against Deep Rock Oil Corporation in the amount of $9,342,642 37. The receivers denied the validity of the whole claim. Thereafter the claim of Standard and the receiver's answer and counterclaim were referred by the court to a Special Master on the 5th day of January, 1934. Later, and on June 19, 1934, this court acquired jurisdiction under Section 77b of

the Bankruptcy Act of the United States as amended, and the claim of Standard was filed in the bankruptcy case. Voluminous testimony and a large number of exhibits were received by the Special Master in the hearings on the validity of the claim of Standard. On March 8, 1935, Standard made a written offer to compromise and settle its claim, which on said date the trustee herein recommended that the court should accept and approve. Hearings were thereafter held on the compromise offer of Standard and after due consideration of the Master's report, the record and the argument of counsel, the court entered its order herein on September 23, 1935, disapproving the compromise agreement entered into between the trustee and Standard Gas and Electric Company.

2. At the time of disapproval of the offer of compromise by Standard on September 23, 1935, this court urged the desirability of settlement and suggested a reconsideration by Standard to the end that a new offer of compromise might be submitted in connection with a modified Plan of Reorganization.

3. Acting upon the court's suggestions Standard has held numerous conferences with the Debtor, the Reorganization Committee, the trustee, counsel for the intervening preferred stockholders and others, and has prepared and desires to file herewith a new offer and proposal of compromise and settlement of its claim to the end that the court proceedings already of great duration may be terminated and the affairs of Deep Rock Oil Corporation reorganized at as early a date as possible and to the end that the creditors and security holders may be relieved from the continuation of the court proceedings and that the litigatiton long pending between the trustee and Standard may reach an early termination.

4. By order entered September 27, 1935, the District Court of the United States for the District of Delaware acquired jurisdiction over Standard Gas and Electric Company in proceedings instituted under the provisions of Section 77b of the Bankruptcy Act of the United States, as amended. No trustee has been appointed in such proceedings which are entitled: "In the Matter of Standard Gas and Electric Company, Debtor, No. 1204" and said District Court has permitted and directed Standard as Debtor to remain in control and management of its affairs, subject to the supervision, control and jurisdiction of the court in said proceeding.

5. The United States District Court for the District of Delaware, by order entered November 2, 1936, has approved and directed the proposal herein by Standard of the attached offer of compromise and settlement of its claim, which said offer of compromise and settlement is marked Exhibit A and by this reference made a part hereof.

6. As a part of said offer and proposal of compromise, Standard has accepted the Amended Plan of Reorganization filed herein by the debtor on November 9, 1936, and such acceptance has been authorized by the United States District Court for the District of Delaware by said order entered on November 2, 1936.

Wherefore, your petitioner prays that this court may enter its order herein approving and permitting the filing of the offer and proposal by Standard Gas and Electric Company of a compromise and settlement of its claim heretofore filed herein in the amount of $9,342,642.37, conditioned, among other things, upon the final confirmation by this court of a Plan of Reorganization acceptable to Standard, on or before February 8, 1937, and that the court may enter its order setting a date for a hearing upon the offer and proposal of compromise attached hereto, and that at such hearing this court may approve said offer and proposal of compromise, direct its acceptance by the trustee herein and enter an order determining and adjudicating the Standard claim in the amount and upon the terms and subject to the conditions as set forth in said offer of compromise.

STANDARD GAS AND ELECTRIC COMPANY,
By N. A. GIBSON, Attorney.

Endorsed: Filed Nov. 9, 1936. H. P. Warfield, Clerk, U. S. District Court.

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Exhibit A.

[Clerk's Note.] (This exhibit is the New Offer of Compromise by Standard Gas and Electric Company and appears in this record in Reorganization Committee's Exhibit #1, omitted pursuant to praecipe.)

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Exhibit A to Exhibit A.

(This exhibit is a copy of the Amended Plan of Reorganiza-

tion and appears in this record as a part of Reorganization Committee's Exhibit #1, omitted pursuant to praecipe.)

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Order No. 138.

This matter coming on to be heard upon the petition of Standard Gas and Electric Company, claimant herein, proposing and offering, subject to the approval of the court, to compromise and settle its claim heretofore filed herein in the amount of $9,342,642.37, for the sum of approximately $5,000,000, of which $1,500,000 shall be held to rank on a parity with the $10,000,000 principal amount outstanding Convertible Gold Notes of the Debtor, upon the conditions and terms set forth in said offer of compromise, and the court having read said petition, and having heard the arguments of counsel, and being fully advised in the premises, doth therefore find, consider, order, adjudge and decree as follows:

1. That leave be and the same is hereby granted to Standard Gas and Electric Company to file herein forthwith its written offer and proposal to compromise and settle its claim heretofore filed herein in the amount of $9,342,642.37 upon the conditions and subject to the terms of said written proposal of compromise.

2. That the proposed offer by Standard Gas and Electric Company to compromise and settle its claim upon the conditions and terms set forth therein is hereby set for hearing, consideration and determination by the court at the hour of 10:00 a. m. on December 12, 1936, in the courtroom of the District Court of the United States in the Federal Building at Tulsa, Oklahoma, at which time and place the court will consider any and all objections made and filed as herein required by any party in interest to the proposed compromise of Standard Gas and Electric Company's claim and shall then approve or disapprove said compromise and, if said compromise is approved, shall adjudicate, order and direct that Standard Gas and Electric Company has a good and valid claim in the amounts and upon the terms, and subject to the conditions set forth in said offer of compromise.

3. All parties in interest desiring to object to the approval of the said compromise and settlement of the claim of Standard Gas and Electric Company shall file such objections in writing on or before December 7, 1936, at the office of H. N. Greis,

trustee herein, Atlas Life Building, Tulsa, Oklahoma, or with the clerk of this court at the Federal Building, Tulsa, Oklahoma.

4. The debtor is hereby directed to include in the notice directed to be published and circulated by the debtor of the hearing to be held December 12, 1936, regarding the proposal and confirmation of the Amended Plan of Reorganization filed herein on November 9, 1936, notice that on 1936, this court will hear and determine all objections to the proposed compromise of the Standard Gas and Electric Company claim that may be filed in writing by any party in interest on or before December 12, 1936, at the office of H. N. Greis, trustee, or with the clerk of this court, as herein ordered.

Enter:

(Seal). F. E. KENNAMER, Judge.

Dated November 9th, 1936.

Endorsed: Filed Nov. 9, 1936. H. P. Warfield, Clerk.

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Copy.

Gerstley, Sunstein & Co., 213 So. Broad St., Philadelphia, Pa.

December 2, 1936.

Mr. G. N. Greis, Trustee, Deep Rock Oil Company, Atlas Life Building, Tulsa, Oklahoma.

Dear Sir: We have in hand the Notice to the Creditors of the Deep Rock Oil Corporation, dated November 7, 1936, and in accordance with its provisions, we, the undersigned, representing $42,000 principal amount of Notes, desire to file formal objection to the amended reorganization plan and respectfully request that it should not be confirmed in its present form.

The Plan seems to us to be unfair in several of its important points:

1. *Inadequate provision is made for unpaid interest, which on March 1, 1937, will amount to $240 per $1,000 Notes:* Almost three years have elapsed since the presentation of the first plan and during this period conditions in the oil industry have materially improved and substantial amounts have been earned through the company operations, with the result that the cash available in the company's treasury on September 30, 1936, had

increased to some $4,325,000, and the working capital was over $7,000,000. The new plan provides for the payment of only one year's interest on these notes at 6%. The current position of the company would seem to indicate that this back interest might be paid in full in cash and still leave a cash balance to the company of almost $2,000,000 for reorganization expenses and working capital.

We believe, therefore, that this interest should be paid in full in cash but that if further investigation as to requirements of the company would indicate that this is not feasible, the noteholders should at least receive the equivalent of such back interest as is not paid in cash in the form of scrip or preferred stock ranking ahead of the new common stockholders.

2. *New Debentures are to be dated as of the date of consummation of the Plan.* Under the terms of the Plan, new debentures are to be dated not later than the date of the consummation of the Plan, without any provision for payment to noteholders of interest which would accumulate during any period of delay or litigation, so that under this Plan noteholders would lose all claims upon earnings accumulating during a period of delay.

We believe, therefore, that the new plan should be modified to the extent of having the notes dated currently.

3. *Interest on the New Debentures is placed entirely on an Income Basis.* The earnings of the company for the last year or two would seem to indicate that there is enough earning power available to place a portiton of this interest on a fixed interest basis. Under the present provisions of the plan, the company in arriving at a net income for payment of interest is permitted a long list of deductible items, so arbitrary in nature that the company with a large cash income might be able to report but little available for interest.

We believe, therefore, that at least a portion of this interest should be on a fixed basis, the amount to be determined by a more detailed investigation of the figures showing the earnings of the company over a period of years, which data has not been made available to us.

4. *The New Indenture is weak in other respects.* A sinking fund based on one-half of earnings remaining after payment of interest and depreciation is unsatisfactory because of the

heavy deductions allowable under the indenture, which has been touched upon in the preceding paragraph.

Since the oil wells are being constantly depleted, such a sinking fund should be reasonably heavy.

We believe, therefore, that in lieu of the above sinking fund a new provision should be substituted which would be based on earnings before depreciation and depletion as a safeguard to the noteholders against undue dissipation of the cash and against the depletion of the oil. This new sinking fund should supplement that contingent upon payment of dividends.

It is our desire to cooperate in facilitating a prompt and equitable reorganization. We understand, however, that there is a possibility of further litigation which we, of course, are anxious to avoid, if possible, since any delay in the consummation of the plan would be injurious to the interests of the noteholders. We hope, therefore, that all the interested parties will agree to a compromise and modifications of the plan that will allow an early reorganization satisfactory to all concerned.

Very truly yours,

GERSTLEY, SUNSTEIN & CO.
By: ? ?SUNSTEIN.

Copies to: Mr. John J. Shinners, Chairman Reorganization Committee, Room 1100-231 So. La Salle St., Chicago, Illinois, Clerk of the Court, U. S. District Court, Tulsa, Oklahoma.
Tjm

Endorsed: Filed Dec. 4, 1936. H. P. Warfield, Clerk U. S. District Court.

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Suggested Changes and Modifications to Amended Plan of Reorganization Filed by John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee.

John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee acting under and pursuant to the terms of a Deposit Agreement dated August 9, 1934, as amended November 10, 1936, respectfully suggest that the Amended Plan of Reorganization filed herein on November

9, 1936, with the approval of the court, be modified and amended as follows: Each and all said suggested modifications and amendments are in compliance with Order No. 137 entered herein on November 9, 1936. The undersigned Reorganization Committee desires that these suggested modifications be considered at the time of the hearing on confirmation of the said Amended Plan of Reorganization.

1. To the first sentence of the second paragraph under 7 (a), Description of New Securities, should be inserted part of a sentence. The sentence, as changed, will read as follows (the matter to be inserted being underlined):

"Said interest shall be cumulative so that to the extent the interest payments on March 15th and September 15th of each year are not made or are made at a rate less than 6% per annum, the deficiency, subject to the conditions hereinafter set forth, shall be cumulative and accrue and be thereafter payable out of future Available Net Income of the New Company, and any such deficiency shall be paid in full prior to the declaration and payment of any dividends on any class of stock of the New Company, *provided, however, that this restriction shall not prevent the payment of dividends in capital stock of the New Company.* * * *"

2. The sentence comprising the first paragraph under "First", which is the fifth paragraph under 7 (Description of New Securities) should be changed. The sentence, as changed, will read as follows (the matter to be stricken is marked out and the new matter to be inserted is underlined):

"Net income of the New Company shall be determined in accordance with accounting practice in the oil industry in so far as such practice is not inconsistent with the methods prescribed herein (on a consolidated basis after eliminating inter-departmental and inter-company transactions, except such profits as might remain in inventory and which are not eliminated in accordance with the provisions set forth in the annexed schedule B with respect to valuation of inventory) for each period of six months ending June 30th (herein referred to as the 'June Income Period') and for each period of twelve months ending December 31st (herein referred to as the 'December Income Period'), after providing for all operating, selling, administrative and other expenses incurred or accrued during such Income Period, including (i) depreciа-

tion of plants and equipment, exclusive of production equipment; (ii) depletion of productive leaseholds and intangible costs and depreciation of physical equipment on productive leases; (iii) amortization of non-productive leaseholds; (iv) amortization of service stations leasehold improvements; (v) the entire cost of 'dry holes' drilled, when determined dry; (vi) all oil and gas lease rentals; (vii) the expense of maintaining wells, equipment and all other physical property; (viii) accrual for bad debts losses; (ix) all local, state and Federal taxes, excluding Federal *and state taxes, if any, applicable to such income as is herein specifically excluded from 'available net income';* (x) abandonments and (xi) interest on all interest bearing indebtedness except the Income Debentures and indebtedness, if any, subordinated thereto."

3. The second sentence of the first paragraph under "Sixth", which is the tenth paragraph under 7 (Description of New Securities) should be changed. The sentence, as changed, will read as follows (the matter to be stricken is marked out and the new matter to be inserted is underlined):

"Said account shall contain charges or credits (of a character corresponding to those above set forth for the determination of Net Income) appearing in a period subsequent to the period to which they actually apply and made necessary in order to restate accurately the accounts for such earlier period, *excepting that this provision shall not be construed to include the usual operating charges and income credits which, due to delayed billings, are not ascertainable and are, in accordance with accounting practice, included as expenses or income of subsequent periods.*"

4. To the sentence which comprises the sixteenth paragraph of 7 (a) (Description of New Securities) should be added part of a sentence. The paragraph, as changed, reads as follows (the matter to be inserted being underlined):

"The Indenture will provide that no dividends may be paid by the New Company until the outstanding principal amount of Income Debentures has been reduced to $5,000,000.00 and that no shares of the New Company's common stock may be purchased by it as long as any Income Debentures are outstanding, *provided however, that this restriction shall not prevent the payment of dividends in capital stock of the New Company.*

5. The last sentence of the seventeenth paragraph of 7 (a) (Description of New Securities) should be changed. The sentence as changed will read as follows (the matter to be stricken is marked out and the new matter to be inserted is underlined):

"Until the principal amount of outstanding Income Debentures has been reduced to $5,000,000.00 there shall be paid into the Sinking Fund on or before March 15th of each year an amount equal to one-half of the Available Net Income for the preceding December Income Period remaining after the payment of all interest payable on March 15th upon the Income Debentures out of such Available Net Income and after deducting proper provisions for Federal income taxes, *not already deducted in computing Available Net Income,* during the first taxable year of the New Company and upon the expiration of said first taxable year after deducting Federal income taxes paid *and not already deducted in computing Available Net Income.*"

6. A comma should be added in the second sentence of the eighteenth paragraph of 7 (a) (Description of New Securities) after the words "Sinking Fund" the first time the words appear. The sentence with this comma added will read as follows:

"Whenever the New Company is required by the Plan or the indenture to make any payment into the Sinking Fund, in lieu of depositing cash with the Trustee, the New Company may surrender Income Debentures for cancellation and receive a Sinking Fund credit in an amount equal to the purchase price paid by the New Company for the acquisition of the Income Debentures so surrendered."

7. The sentence which comprises the twentieth paragraph of 7 (a) should be changed. The sentence as changed reads as follows (the matter which is stricken being marked out, and the matter which is inserted being underlined):

"Earned surplus for the purpose of the preceding paragraph shall be considered to represent the net income for the entire period (taken as a whole) beginning with the date of the Income Debentures *to and including the calendar years in which dividends are declared, to the extent that prior to the date of dividend declaration net income is ascertainable for such years,* determined as hereinbefore provided but after also

deducting (i) all Federal Income taxes paid and accrued, *not already deducted in computing Available Net Income,* (ii) all interest paid, accumulated and unpaid, and accrued on the Income Debentures and all interest paid or accrued on indebtedness, if any, subordinated to the Income Debentures, (iii) all losses which may have resulted from the purchase or sale of Income Debentures, the sale of advances to or investments in subsidiary companies and the sale of fixed assets, (iv) all dividends paid or declared prior to the declaration of the dividend in question, (v) all amounts paid or payable to the Sinking Fund (except such amounts as may have been paid or then be payable to the Sinking Fund as a result of the sale of fixed assets or the sale of advances to and investments in subsidiaries), and (vi) the amount to be appropriated to such Sinking Fund upon payment of the dividend in question. Although the losses which may result from (a) the purchase or sale of Income Debentures, (b) the sale of advances to or investments in subsidiary companies and (c) the sale of fixed assets are, as above provided, to be deducted from net income in determining the amount of 'earned surplus' it is not intended that any profits resulting from such purchases and sales shall be added to the net income in determining the amount of 'earned surplus'."

8. The sentence which comprises the twenty-first paragraph of 7 (a) should be changed. The sentence as changed reads as follows (the matter which is to be stricken is marked out and the matter to be inserted is underlined):

"The Indenture shall also contain further provisions and restrictions, designed to protect the Income Debentures, to be consistent with the Plan and approved by the court, including provisions as follows: (i) a provision prohibiting the payment of so-called supervision or management fees to affiliated companies; (ii) a provision requiring that an amount equal to the *net* cash proceeds received by the New Company or any subsidiary from each sale of a fixed asset (other than fixed assets disposed of in transactions which normally occur in the routing operation of the business) and that the *net* cash proceeds received by the New Company from the sale of advances to or investments in subsidiary companies (to be defined,) *after deducting from such net cash proceeds any Federal or State taxes directly applicable to any profits reflected therein,* be

paid into the Sinking Fund except to the extent that such *net* cash proceeds are used within eighteen months after their receipt by the New Company or a subsidiary for construction or for the acquisition of additional fixed assets or to reimburse the New Company or a subsidiary for moneys theretofore expended by it for construction or for the acquisition of additional fixed assets, or if such *net cash* proceeds are derived from the sale of a fixed asset of a subsidiary, they may be used to retire or pay the principal of any indebtedness of such subsidiary; provided, however, that this provision shall not apply to any sale where the *net* cash proceeds received by the New Company or a subsidiary are less than $100,000, and provided further that in no event shall the New Company be required to pay to the Sinking Fund amounts in excess of the principal amount of Income Debentures then outstanding; (iii) a provision preventing the New Company from consolidating with or merging into any other corporation or selling or transferring all or substantially all of its assets to any other person, firm or corporation, unless prior thereto all of the Income Debentures then outstanding shall be directly secured by a closed mortgage upon the fixed assets of the New Company so to be owned by such consolidated or merged company or so to be transferred or conveyed; (iv) a provision designed to prevent the New Company from paying any salary or compensation to any officer, director, or employee of any affiliated company, except only in proper amounts for services actually rendered; (v) a provision designed to prevent the New Company, by lease or otherwise, from acquiring property from or disposing of property to, an affiliated company, except upon the terms and conditions deemed to be fair by the respective Boards of Directors, after an appraisal of the property in question has been made by an independent engineer, or other expert, selected or approved by the Trustee under the indenture; provided, however, that this provision shall not apply to purchases or sales of property involving less than $25,000.00 or to leases involving an annual rental of less than $12,000.00; and (vi) provisions fixing an accounting system for computing depreciation, depletion and other charges and establishing a 'depreciation base' as set forth in Schedules A and B annexed hereto."

9. An additional provision should be included under para-

graph two, schedule "A", attached to the Amended Plan of Reorganization, as follows:

"In the event the Treasury Department of the United States Government shall stipulate and require methods of computing depreciation of physical equipment on productive leases for the purposes of computing the Federal income tax of the New Company, which methods differ from those hereinabove specified, then and in that event, the officers of the New Company may, with the approval of independent certified public accountants, accept and apply such Treasury Department methods in the computation of depreciation of such physical equipment on productive leases in lieu of the methods hereinabove stipulated."

Dated: December 4, 1936.

JOHN J. SHINNERS, NEWTON P. FRYE, ROBERT F. HOLDEN, JOHN H. MASON, GRAYSON M.-P. MURPHY and ALBERT J. ROBERTSON, as a Reorganization Committee constituted by and under a Deposit Agreement dated August 9, 1934,
By CUTTING, MOORE & SIDLEY,
Attorneys for said Committee.

State of Illinois, County of Cook, ss.

James F. Oates, Jr., being first duly sworn, on his oath deposes and says that he is a partner of Cutting, Moore & Sidley, Attorneys for said Reorganization Committee; that he is duly authorized to act for such Committee in this behalf, and that the statements made in the foregoing are true to the best of his knowledge, information and belief.

JAMES F. OATES, Jr. (Sgd.)

Subscribed and sworn to before me this 4th day of December, 1936.

MARY M. HACK (Sgd.)
Notary Public (Notarial Seal).

Endorsed: Filed Dec. 5, 1936. H. P. Warfield, Clerk U. S. District Court.

**Suggested Changes and Modifications to Amended Plan of Reorganization Filed November 9, 1936, Presented by the Pitcairn Company, a Corporation, and Philadelphia Investment Corporation, Being the Holders of an Aggregate Principal Amount of $250,000.00 of Convertible Gold Notes Issued by Deep Rock Oil Corporation, Debtor.**

The Pitcairn Company, a corporation organized under and existing by virtue of the laws of the State of Delaware, and Philadelphia Investment Corporation, a corporation organized under and existing by virtue of the laws of Pennsylvania, as the owners and holders of convertible gold notes of Deep Rock Oil Corporation hereby object to the Confirmation of the Amended Plan or Reorganization filed herein by the Debtor on November 9, 1936, and pursuant to the authority granted by the Order of this court entered November 9, 1936, file herewith suggested changes and modifications to the said Amended Plan of Reorganization, and in support of such objections and suggested modifications allege as follows:

1. The Pitcairn Company, under date of December 3, 1936, withdrew convertible gold notes of the Debtor from deposit with the Reorganization Committee having a principal amount of $100,000.00. The Pitcairn Company is also the owner of certificates of deposit issued by the Reorganization Committee representing 1,210 shares of $7.00 cumulative convertible preferred stock of the Debtor, which The Pitcairn Company has left on deposit with the Reorganization Committee.

2. Philadelphia Investment Corporation, under date of December 3, 1936, withdrew from deposit with the Reorganization Committee convertible gold notes of the Debtor being in the principal amount of $150,000.00.

3. The undersigned, The Pitcairn Company, a corporation, and Philadelphia Investment Corporation, a corporation, jointly and severally object to the Amended Plan of Reorganization filed November 9, 1936, for the reason that the length of time which has elapsed since the original Plan of Reorganization was filed on August 9 ,1934, makes inequitable and unfair the disbursement of only thirty dollars ($30.00) in cash to the holder of each five hundred dollar ($500.00) convertible gold note as provided in the said Amended Plan, and for the further reason that until the principal amount of the proposed income debentures has been reduced to five million dollars

($5,000,000.00) all the available net income remaining after the payment of interest and after deducting proper provision for Federal Income Taxes should be used as a sinking fund for the retirement of the proposed income debentures. The undersigned assert and charge that in view of the substantial allowances provided in the Amended Plan to be deducted for depreciation, depletion and amortization in the determination of "available net income" for the purpose of paying interest on the proposed income debentures, all the remaining available net income, after the payment of such interest and after proper provision for income taxes, should be used to retire the proposed income debentures.

Wherefore the undersigned, The Pitcairn Company, a corporation, and Philadelphia Investment Corporation, a corporation, respectfully suggest and propose that the Amended Plan of Reorganization filed herein on November 9, 1936, be modified and amended as follows, and that the said suggested modifications be considered and required to be made by the court at the time of the hearing on Confirmation of the said Amended Plan of Reorganization.

1. The last sentence of the seventeenth paragraph of 7 (a) (Description of New Securities) should be changed. The sentence as changed will read as follows (the matter to be stricken is marked out and the new matter to be inserted is underlined):

"Until the principal amount of outstanding Income Debentures has been reduced to $5,000,000 there shall be paid into the Sinking Fund on or before March 15th of each year an amount equal to ~~one-half of~~ *all* the Available Net Income for the preceding December Income Period remaining after the payment of all interest payable on March 15th upon the Income Debentures out of such Available Net Income and after deducting proper provisions for Federal Income Taxes during the first taxable year of the New Company and upon the expiration of said first taxable year after deducting Federal Income Taxes paid."

2. The paragraph which comprises 8 (a) should be changed. The figure appearing in the last line of the second paragraph should be changed from "$30 in cash" to "$60 in cash". The sentence as changed will read as follows:

"(a) *Holders of Convertible Gold Notes* of the Present Com-

pany will be entitled to receive, for each $500 principal amount of Convertible Gold Notes:

$500 principal amount of Income Debentures, 2 shares of New Common Stock, and $60 in cash."

3. To paragraph 9 under the heading "Confirmation of Plan" should be added the following sentence:

"If a plan of reorganization is not confirmed by the court and made effective on or before January 1, 1937, then, and in that event only, the holders of Convertible Gold Notes of the Present Company will be entitled to receive in addition to the $60 in cash, as herein provided, for each $500 debenture, an amount equal to 6 per cent per annum of the principal amount of Convertible Gold Notes held by them from January 1, 1937, to the date of the New Income Debentures."

THE PITCAIRN COMPANY, a Corporation,

(Seal) By (Signature Illegible) (Sgd.)
Vice President.

PHILADELPHIA INVESTMENT CORPORATION, a Corporation,

(Seal) By (Signature Illegible) (Sgd.)
Vice President.

Dated December 3, 1936.

Endorsed: Filed Dec. 7, 1936. H. P. Warfield, Clerk U. S. District Court.

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Application of Independent Committee for Protection of Holders of Preferred Stock of Deep Rock Oil Corporation for Permission to Intervene.

Come now John M. Taylor, Oscar A. Kennedy, and T. E. Webster, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, and respectfully apply to this Honorable Court for permission to intervene herein, for the purpose of representing and protecting the interests of the holders of preferred stock who have hertofore and who may hereafter authorize applicants to represent them in these proceedings, and hereby tender their Petition for Intervention which is attached hereto, and request the permission of this Honorable Court to intervene herein,

in the place and stead of John M. Taylor and William H. Taylor.

JOHN M. TAYLOR,
OSCAR A. KENNEDY,
T. E. WEBSTER,
as the independent committee for the protection of the holders of preferred stock of Deep Rock Oil Corporation.
By SEMPLINER, DEWEY, STANTON & HONIGMAN and
MILSTEN & MILSTEN,
By TRAVIS I. MILSTEN (Sgd.)
Their Attorneys.

Endorsed: Filed Dec. 12, 1936. H. P. Warfield, Clerk U. S. District Court.

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Petition for Intervention by Independent Committee for Protection of Holders of Preferred Stock of Deep Rock Oil Corporation.

To the District Court of the United States for the Northern District of Oklahoma:

Now come John M. Taylor, Oscar A. Kennedy and T. E. Webster, all of Philadelphia, Pa., having constituted themselves under the name and style of "Independent Committee For The Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation", petitioners herein, and hereinafter referred to sometimes as the "Independent Committee", and show unto this Honorable Court, as follows:

I.

That the Deep Rock Oil Corporation, the Debtor Corporation, was originally placed in receivership by proceedings filed on February 28, 1933.

II.

That the three classes of claimants interested in any reorganization of the Debtor Corporation are:

(1) Noteholders—holding $10,000,000.00 in principal amount of notes with interest accrued at six per cent per annum as to 78% of the notes, and at seven per cent per annum as to approximately 22% of the notes from March 1, 1933.

(2) Preferred Stockholders—holding 50,000 shares of $7.00 Cumulative Convertible Preferred Stock, without par value, with cumulative dividends in arrears of about $15.00 per share at the date of receivership, on February 28, 1933, and such additional dividends as have accumulated since February 28, 1933, at the rate of $7.00 per share per annum.

(3) Standard Gas and Electric Company—parent Company of the Debtor Corporation whose claim is based upon an open account book balance of $9,342,624.39, as well as upon the ownership of approximately 98% of the Debtor Corporation's common stock.

III.

That both the $10,000,000.00 of notes and the $5,000,000.00 of preferred stock were sold to the public through H. M. Byllesby & Company and its affiliates, and that said notes and preferred stock were sold to the public at a price in the neighborhood of $1,000.00 for each $1,000.00 note and approximately $100.00 per share for each share of preferred stock. That both the notes and the preferred stock are widely scattered in ownership, being held by in excess of six thousand security-holders by far the largest portion of whom are resident at great distance from Tulsa, Okla.

IV.

That, since about the inception of the receivership of said Deep Rock Oil Corporation, there was initiated by H. M. Byllesby & Company that certain Committee designated under the name and style of "Reorganization Committee", consisting of the following persons: John J. Shinners, Chairman; Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy, Albert J. Robertson.

That said Committee was organized under the direction of H. M. Byllesby & Company, said John J. Shinners being an employe of the said H. M. Byllesby & Company. That the remaining members of the Committee were personally chosen by said John J. Shinners and for the most part are individuals who were from time to time associated with H. M. Byllesby & Company in the sale of securities of either the Deep Rock Oil Corporation or its parent Company, Standard Gas and Electric Company, or other affiliates of H. M. Byllesby & Company. That the said H. M. Byllesby

& Company is the top holding company controlling the Standard Gas And Electric Company, being the parent Company of said Debtor Corporation. That the said Reorganization Committee under deposit agreement dated August 9, 1934, solicited the deposit of both notes and preferred stock of said Debtor Corporation so that at October 30, 1936, it had on deposit with its depositaries 82% of the outstanding Notes and 65% of the outstanding shares of Preferred Stock. That, during that period, no other Committee was functioning for security-holders other than said Reorganization Committee.

V.

That, under date of August 9, 1934, said Reorganization Committee presented a proposed plan of reorganization, the basic features of which were as follows:

(a) The Noteholders were to receive dollar for dollar of new income debentures bearing interest at six per cent per annum, if earned, and payable in fifteen years, making a total of $10,000,000.00 of new income debentures to be outstanding. In addition, the Noteholders were to receive 15% of a total Common Stock issue of 520,000 shares, or a total of 80,000 shares of common stock at the rate of 8 shares for each $1,000.00 note held.

(b) Standard Gas and Electric Company was to receive a $2,500,000.00 Preferred Stock issue, consisting of 25,000 shares of $7.00 Cumulative Preferred Stock, and in addition thereto, Standard was to receive 390,000 shares of the Common Stock of the total of 520,000 shares to be issued or about 75% of the New Common Stock.

(c) The Preferred Stockholders were to receive only common stock at the ratio of one share of common stock for each share of preferred stock held or a total of 50,000 shares amounting to approximately 9½% of the new Common stock issue.

VI.

Thus, under the original Plan of Reorganization proposed by said Reorganization Committee, the Preferred Stockholders were to be deprived entirely of their preferred position over the Common stock and were to receive in lieu of their Preferred Stock approximately 9½% of the Common Stock which, in turn, was again to be back of a $10,000,000.00

note issue, and in addition thereto, a $2,500,000.00 Preferred Stock issue entirely owned by Standard.

VII.

That the said first Plan of Reorganization was characterized by said Reorganization Committee as a fair plan, although explanation was made in the course of an eighty-eight page printed pamphlet containing said Plan, in part, as follows:

"The Standard claim has been allotted a position in the reorganization based upon the theory that Standard can justify its claim in a substantial manner. Before reaching any conclusions with respect to the Standard claim, the Committee and its counsel made an independent detailed study and analysis of the transactions and accounts between the Corporation and Standard covering the period from the organization of the Corporation to the date of the receivership. Based on this investigation, the Committee believes that Standard could justify and support a claim for approximately $7,300,000.00. * * * * In view of the foregoing, in the judgment of the Committee, the final determination of the claim of Standard will not affect the fairness of the Plan provided the claim is allowed for at least $5,000,000.00, of which a substantial portion shall be held to rank on a parity with the Convertible Gold Notes."

VIII.

The propriety of the claim of the Standard Gas and Electric Company to an open account indebtedness of approximately $9,000,000.00 has, from the outset, been the crux of the situation as to the fairness or validity of any Plan of Reorganization, especially so from the standpoint of the Preferred Stockholders. If this claim were to be defeated, the Preferred Stockholders would be entitled to come ahead of Standard in any distribution of the assets of the Debtor Corporation; while, if the claim were allowed, the Preferred Stockholders can share in the assets only to the extent that there is any equity over and above the claim, unless, of course, the claim were subordinated under the rules of law to the rights of the holders of the Preferred Stock.

IX.

From the inception of the filing of the Standard Gas and

Electric Company claim, objections to its allowance were filed by the Trustee. The claim was thereupon referred, by agreement of counsel, to a Special Master, who, during the period of two years had submitted before him intermittently proofs by way of testimony of witnesses, depositions in answer to interrogatories and exhibits. The proofs thus submitted were voluminous and were finally terminated in the forepart of February, 1935, at which time both sides rested and stated that they had no further proofs to offer. At about that time, John M. Taylor, one of the petitioners herein, and his brother, William *M.* Taylor, filed a petition to intervene, reference to which petition is prayed as fully as if set forth herein. That, as appeared from said petition, said John M. Taylor and William H. Taylor were the owners of record of 550 shares of Preferred Stock of said Debtor Corporation. That said stock had been acquired by said Taylors at a cost of approximately Forty-eight Thousand ($48,000.00) Dollars during the years between 1928 and the early part of 1930. That, as set forth in said Taylors' petition to intervene, they objected to the allowance of the claim of Standard Gas & Electric Company for the reasons therein set forth, and that it was desirable and necessary, for the protection of the interests of said Taylors and the interests of the Preferred Stockholders as a class, that said Taylors be permitted to intervene in behalf of themselves and all other holders of Preferred Stock for the protection of their rights in the Debtor Corporation. That, pursuant to said petition for intervention, an order was entered by the Honorable Franklin E. Kennamer, District Judge, under date of February 25, 1935, permitting the intervention of said John M. Taylor and William H. Taylor.

X.

That, on March 8, 1935, Standard Gas and Electric Company presented an offer in compromise and settlement of its claim, reference to which is hereby prayed as fully as if set forth in full herein. That, by the terms of said offer, a claim was to be allowed Standard Gas and Electric Company in an amount approximating $4,750,000.00 of which approximately $3,000,000.00 was to be on a par with the Noteholders, and approximately $1,750,000.00 was to be subordinated to the Noteholders but nonetheless ahead of the preferred stock. That this first offer of compromise was thereupon presented to the court under approval by the Trustee and by the said Re-

organization Committee and the court thereupon referred the matter for hearing on a day certain before the same Special Master who had heard all of the proofs in the contest of the Standard claim with notice to be given to all creditors and stockholders of the Debtor Corporation. That said hearing was had before said Special Master on March 25, 1935. That, at the time of said hearing, said Reorganization Committee, the Trustee, the Debtor Corporation, and Standard recommended acceptance of said compromise proposal. That no security-holders other than said Taylors, through their Counsel, appeared at said hearing to object to the allowance of said compromise proposal. That, at the time of said hearing, said Taylors filed objections to said proposed settlement of the Standard claim dated March 21, 1935, reference to which is hereby prayed as fully as if set forth in full herein. That, at the time of the hearing before said Special Master, Counsel for said Taylors called to the stand for examination said John J. Shinners, Chairman of said Reorganization Committee, and also cross-examined George S. Ramsey, Counsel for the Trustee of the Debtor Corporation, upon the offer of said George S. Ramsey to testify in the absence of the Trustee, H. N. Greis, who was sought to be examined, and reference is hereby prayed to the testimony so adduced at said hearing before said Special Master on March 25, 1935.

XI.

That, on May 11, 1935, said Special Master filed a report recommending the acceptance of said proposed settlement of said Standard claim, reference to which report is hereby prayed. That, thereupon, the Honorable Franklin E. Kennamer, District Judge, set June 3, 1935, for the hearing on the approval of the report of said Special Master recommending acceptance of said proposed settlement of the Standard claim. That, at the said hearing of June 3, 1935, the Taylors filed Exceptions to the report of said Special Master, reference to which is hereby prayed as fully as if set forth in full herein, and that, at said hearing said Taylors through their Counsel again were the only ones to object to the approval of said compromise proposal. That at said hearing the approval of said compromise proposal was urged by Standard, the Debtor Corporation, the Trustee, and said Reorganization Committee through their respective counsel. That the Honorable Franklin E. Kennamer, District Judge, thereupon

took under advisement the approval of said compromise proposal. That, on the same day, there came on for hearing before said District Judge, the petition of said Taylors for a list of Creditors and Stockholders of the Debtor Corporation and to set aside order numbered 71, reference to which is hereby prayed as fully as if set forth in full herein. That, as appeared from said last named petition, said Taylors had made a demand upon the Trustee, under date of April 8, 1935, for a list of the stockholders and creditors of the Debtor Corporation. That, thereupon, upon petition of said Trustee, and without notice to Counsel for said Taylors, there was, on April 16, 1935, entered an ex parte order, being order numbered 71, reference to which petition and order is hereby prayed. That said order No. 71 was objected to by said Taylors as giving to said Reorganization Committee an unfair advantage in that said Reorganization Committee had full knowledge of the names of the creditors and stockholders of said corporation and could communicate with them at will and without the supervision of the court but that by the terms of said order numbered 71 unfair restrictions were placed upon said Taylors in any attempt to communicate with the creditors or stockholders of the Debtor Corporation. That, attached to said petition to set aside said order numbered 71 was a letter proposed to be sent by said Taylors to the security-holders of said Debtor Corporation.

XII.

That under order numbered 94, dated August 12, 1935, said Honorable Franklin E. Kennamer, District Judge, denied the said petition to set aside said order No. 71, and retained the requirement that any letter from said Taylors to said security-holders shall be subject to the supervision of said court, although no such requirement was imposed upon said Reorganization Committee. That, by the terms of said order numbered 94, a further hearing was set for consideration and approval of the Special Master's report recommending the proposed settlement of said Standard claim. That, by the terms of said order numbered 94, it was further provided that said Taylors could submit a letter setting forth their opposition to the said proposed settlement, which letter, along with a letter by the Trustee recommending the settlement, were to be mailed to the security-holders by the clerk of the court, without submission of any list of security-holders to

said Taylors. That reference is hereby prayed to the said letter of August 25, 1935, from said Taylors, addressed to said security-holders which was in the form as finally permitted to be sent and reference is also prayed to the said letter of said Trustee enclosed therewith recommending approval of said compromise proposal. That, by the terms of said order numbered 94, it was further provided that said further hearing on said Special Master's report should be held on September 23, 1935.

XIII.

That, at said hearing of September 23, 1935, Standard, the Debtor Corporation, the Trustee and said Reorganization Committee by their respective Counsel again urged acceptance of said compromise proposal. The only persons who appeared to object were the said Taylors through their Counsel, except as additional objections were presented by said Taylors' Counsel in behalf of some additional 3500 shares of Preferred stock, who had communicated with said Taylors by virtue of said letter of August 25, 1935. That after hearing full arguments of Counsel and after full consideration of the subject matter, said Honorable Franklin E. Kennamer, District Judge, rendered an opinion from the Bench, reference to which is hereby prayed rejecting said compromise proposal as being unfair to the holders of preferred stock. Pursuant to said opinion, said Honorable Franklin E. Kennamer entered, under date of September 23, 1935, order numbered 102, reference to which is hereby prayed, rejecting said compromise proposal on the basis that the objections of said William H. and John M. Taylor, Interveners, should be sustained. That *the* the time of said hearing of September 23, 1935, said Honorable Franklin E. Kennamer stated in part:

"Now there is no need to go any further with this argument. I am thoroughly convinced, I have been studying this case, and that is the reason I had it set down for further argument, my conscience wouldn't let me approve this compromise from just hearing the arguments. Here is $5,000,000.00 worth of stock outstanding; somebody got that money from the public. Now under this settlement if I was to approve it, and in approving th- plan of reorganization, I would just as well say to the stockholders, you are wiped out;

you get a little piece of paper called common stock that I wouldn't give you one cent for." (Transcript, p. 71).

* * * * * * * * * *

"The evidence is overwhelming the Standard ran this company; they officered it; they capitalized it; it is just a child in their hands, and if there ever was a case the law is clear on, it is nothing in the world but an instrumentality according to the admissions." (Transcript, p. 72).

That, at said hearing, said Honorable Franklin E. Kennamer further suggested that he was not adverse to considering what, in his opinion, would be a fair compromise proposal and suggested that if Standard had any such desire, it submit a new compromise proposal within ten days. Thereupon, Judge Kennamer further stated:

"Now I am just indicating to you the things I think will be reasonable, and maybe it will help you out, but if you cannot reach a settlement I will enter an order denying the claim on the ground that the Instrumentality Rule applies." (Transcript, page 73).

That subsequent to said hearing of September 23, 1935, several months elapsed without any further steps being taken by either Standard, the Trustee or said Reorganization Committee to present any new compromise proposal. The said Taylors thereupon, in November of 1935, filed a petition with the court to set the Standard claim for hearing on its merits, the hearing of which petition was postponed from time to time upon suggestion of the court that it was advised that a new compromise proposal would be shortly forthcoming. That, thereafter, petitions for extension of time in which to file a new compromise proposal and new Plan of Reorganization based thereon were from time to time filed by said Reorganization Committee and adjournments were from time to time granted over the objection of Counsel for the said Taylors. That, in January, of 1936, the Honorable Franklin E. Kennamer, District Judge, informally appointed an informal Committee to consider a proposed new compromise of the Standard claim and amended Plan of Reorganization based thereon. That said proposal as then submitted contained the principal terms of the present proposed Plan of Reorganization and compromise offer. That to said informal Committee were appointed N. A. Gibson, Attorney for Standard,

George S. Ramsey, Attorney for Trustee, and Travis I. Milsten, Local Counsel for said Taylors. That, thereafter, said Informal Committee filed a report in which the majority consisting of Gibson and Ramsey approved the proposed plan of compromise and said Milsten, as a minority, filed a report in opposition thereto. Reference to said reports is hereby prayed. That, upon filing of said reports, Honorable Franklin E. Kennamer, District Judge, entered an order, on February 17, 1936, requiring the filing of an Amended Plan of Reorganization based upon the new proposal of Standard within forty-five (45) days thereafter. That, from time to time, additional adjournments were granted to said Reorganization Committee over the objection of Counsel for Taylors, reference to such extensions and orders thereon being hereby prayed. Without any adequate excuse, many months expired until the new plan and proposed compromise were finally filed with the court for submission to the security-holders of the Debtor Corporation, being on November 9, 1936, at which time hearing was ordered on said new plan and compromise proposal for December 12, 1936.

XIV.

That, by the terms of said new compromise proposal, the Standard claim is proposed to be allowed at exactly the same amounts as contained in the former compromise proposal which was rejected by the court on September 23, 1935, except that. in addition thereto, additional amounts are added for interest accumulating since the date of said first compromise proposal, as a result of which the total claim proposed to be allowed to Standard under the new compromise proposal is approximately $5,100,000.00. That, under the first compromise proposal, approximately $3,000,000.00 was to be allowed on a par with the Noteholders and the balance to be subordinate to the Noteholders. That under the present compromise proposal approximately $1,750,000 is to be allowed on a par with the Noteholders and the balance to be subordinated to the Noteholders. That said change in said compromise proposal though appearing to be a change on its face is in fact no change at all from the standpoint of the Preferred Stockholders. That in each compromise proposal the full amount of the claim to be allowed to Standard was to be a claim ahead of the preferred stockholders. Thus, under the first compromise proposal which the court rejected, a claim

was to be allowed to Standard of approximately $4,750,000, whereas, under the now proposed compromise, a claim is to be allowed to Standard totaling approximately $5,100,000.00.

XV.

That, under the present proposed plan of reorganization, being hereinafter referred to as the "Amended Plan", the following basic provision for the classes of security-holders is provided:

$10,000,000.00 of new notes bearing six per cent cumulative interest for the present $10,000,000.00 of notes outstanding.

40,000 shares of common stock to the Noteholders out of a total of 520,000 shares of common stock to be issued, making a total of 7½% of the common stock to go to the Noteholders.

A six per cent payment amounting to $600,000.00 is to be paid to the Noteholders in cash.

Thus, each noteholder is to receive for each $1,000 note—a new $1,000.00 note, four shares of common stock, and $60.00 in cash.

Standard is to receive for its claim 380,000 shares out of a total of 520,000 shares of common stock, or approximately 73% of the total issue of common stock.

The holders of Preferred Stock are to receive two shares of common stock for each share of preferred stock held by them or a total of 100,000 shares of the outstanding 520,000 shares of common stock to be issued, making a total of 19½% of the common stock of the new Company to be paid to the present holders of preferred stock.

XVI.

That, within the past few months, said John M. Taylor caused to be initiated the formation of said Independent Committee, which Committee, at its outset, was representative of the interests of some of the largest holders of preferred stock of said Debtor Corporation, holding a total of in excess of 7,000 shares of preferred stock. That said Independent Committee has designated H. Russell Hastings, whose address is 1203 National Bank Building, Detroit, Michigan, as Secre-

tary of said Committee, and that said Committee has designated John M. Taylor as its Chairman. Said Independent Committee has further designated the Counsel for Taylors, being Sempliner, Dewey, Stanton & Honigman, of Detroit, Michigan, as General Counsel for said Independent Committee, and Milsten and Milsten, Local Counsel for said Taylors, as Associate Counsel for said Independent Committee. That said Committee members and its Secretary have no connection with said Debtor Corporation or its affiliate, Standard Gas and Electric Company, or the top holding Company, H. M. Byllesby & Company and have had no such connections at any time. The only interest of said Committee members is that of the holders of preferred stock of said Debtor Corporation.

That the first general communication of said Committee with the holders of preferred stock of the Debtor Corporation was by letter dated November 16, 1936, reference to which is hereby prayed. That said Independent Committee has not solicited the deposit of any securities. It has merely sought authorization to act for holders of preferred stock under power of attorney, the form of which is attached hereto, marked Exhibit A, and made a part hereof. That said Independent Committee, petitioner herein, now represents the holders of preferred stock of the Debtor Corporation owning in excess of 9,500 shares by virtue of authorization under said powers of attorney in form of Exhibit A. That, attached hereto, marked Exhibit B, and made a part hereof, is a list of the security-holders represented by your petitioner showing the names, addresses, certificate numbers and number of shares held. That your petitioner intends from time to time to file under oath additional schedules of security-holders represented by said Independent Committee as powers of attorney are received from time to time.

XVII.

That said Taylors are desirous of having your petitioners as said Independent Committee intervene in these proceedings in the place and stead of said Taylors for the independent protection of the interests of the holders of preferred stock of said Debtor Corporation. That the present Reorganization Committee is not fairly representative of the interests of the holders of preferred stock of said Debtor Corporation, in

particular those holders who have executed powers of attorney to your petitioners, inasmuch as

(a) Said Reorganization Committee is in favor of the present compromise proposal of the Standard Claim and Amended Plan based thereon, whereas, your petitioners are opposed to it as unfair and invalid for reasons more fully set forth in Objections to be filed to said Amended Plan and new compromise proposal, reference to which is hereby prayed.

(b) Said Reorganization Committee is not disinterested in its representation of the holders of Preferred Stock because of the interest of its Sponsor, H. M. Byllesby & Company, in the assets of the Standard Gas & Electric Company, who is the chief beneficiary under the present proposal.

(c) Said present Reorganization Committee represents both Noteholders and holders of Preferred Stock, although the interest of each of those security-holders as a class is different. That the treatment accorded Noteholders under said Amended Plan is far more favorable than the treatment accorded to holders of Preferred Stock under circumstances not warranting such discrimination. That the Present Reorganization Committee has benefited said Not holders at the expense of the holders of Preferred Stock in its submission of a Plan of Reorganization.

XVIII.

That the best interests of the holders of preferred stock require separate representation by your petitioners for the protection of their interests. That the chief issue before the court in connection with the present proposed plan of reorganization is whether or not the preferred stockholders should be squeezed out of their preferred position for the benefit of Standard. That only by independent representation by your petitioners can the rights of said holders of preferred stock of Debtor Corporation be adequately presented before this Honorable Court.

Wherefore, petitioners pray:

(a) That they may be permitted to intervene in the above cause in behalf of the security-holders whom they represent as shown by Exhibits A and B hereof, and in behalf of such other security-holders as they may represent from time to time and in behalf of the holders of preferred stock of the

Debtor Corporation as a class, and that, by such intervention, your petitioners be deemed a party to all proceedings in the above cause.

Dated this 1st day of December, 1936.

JOHN M. TAYLOR,
OSCAR A. KENNEDY,
T. E. WEBSTER,
By H. RUSSELL HASTINGS,
Secretary.

County of Wayne, State of Michigan, ss.

On this 1st day of December, 1936, before me, a Notary Public in and for said County, personally appeared H. Russell Hastings, to me known to be the person who executed the foregoing instrument and who acknowledged before me, that he was duly authorized to execute said instrument in behalf of said petitioners, and that the allegations set forth in said petition are true to the best of his knowledge, information and belief. Evelyn G. Smith, Notary Public, Wayne County, Mich. My commission expires March 17, 1940.

SEMPLINER, DEWEY, STANTON & HONIGMAN,
By JASON L. HONIGMAN,
2003-12 Dime Bank Building,
Detroit, Michigan.

MILSTEN AND MILSTEN,
Tulsa Loan Building,
Tulsa, Okla.
Attorneys for Petitioners.

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Exhibit A.

Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation.

Committee Members:
John M. Taylor, Chairman.
Oscar A. Kennedy,
T. E. Webster.

Sempliner, Dewey, Stanton & Honigman, General Counsel,
2003 Dime Bank Building,
Detroit, Michigan.

H. Russell Hastings, Secretary.
1203 National Bank Building,
Detroit, Michigan.

Milsten & Milsten,
Associate Counsel,
807 Tulsa Loan Building,
Tulsa, Okla.

Power of Attorney to Independent Committee for Protection of Holders of Preferred Stock of Deep Rock Oil Corporation.

Know All Men by These Presents: That the undersigned, a stockholder of Deep Rock Oil Corporation, a Delaware Corporation, holding ..... shares of Seven Dollar Cumulative Convertible Preferred Stock of said corporation, represented by the following certificates:

| *Certificate No.* | *No. of Shares.* |
|---|---|
| ..... | ..... |

has made, constituted and appointed, and by these presents, does make, constitute and appoint John M. Taylor, Oscar A. Kennedy, and T. E. Webster, or a majority of them, the undersigned's true and lawful attorneys for the undersigned and in the undersigned's name, place and stead, to

(a) Represent and act for the undersigned in all matters incident to the reorganization of said Deep Rock Oil Corporation and in all court proceedings in that certain suit pending for the reorganization of said corporation under the provisions of Section 77 (B) of the United States Bankruptcy Act which suit is pending in the Federal District Court for the Northern District of Oklahoma, at Tulsa, Oklahoma, and bears Bankruptcy cause number 2318, Consolidated;

(b) Vote for or against any proposal of compromise or reorganization in any and all matters and things that may come before the court in the said proceedings;

(c) Vote my said stock at any and all meetings of stockholders of said corporation:

(d) Take any and all action which, in the opinion of the said Attorneys, is necessary or desirable for the protection of the rights of the undersigned as a holder of said preferred stock,

hereby giving and granting unto the undersigned's attorneys and each of them full power and authority to delegate to agents or attorneys-at-law any of the power and authority granted herein, and further granting unto the said Attorneys full power and authority to do and perform each and every act, and thing whatsoever necessary and requisite to be done in and about the premises as fully to all intents and purposes

as the undersigned might or could do if personally present at the doing thereof, retaining to the undersigned the full power of substitution and revocation by notice in writing to said Attorneys; hereby revoking any and all powers of Attorneys and agencies heretofore created by me or in behalf of said stock which I own involving the exercise of any of the rights herein delegated to said attorneys.

The undersigned shall not be individually liable for any expense incurred by said attorneys by virtue of the exercise of the powers herein granted.

In Witness Whereof, the undersigned has hereunto set the hand and seal of the undersigned, this.....day of ....., 1936.

..... (Name)
..... (Address)

State of ....., County of ....., ss.

I, ....., a Notary Public in and for and residing in the said County, in the State aforesaid, do hereby certify that ..... personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that ..h.. signed. sealed, and delivered the said instrument as ..... free and voluntary act, for the use and purposes therein set forth.

Given under my hand and Notarial seal this ..... day of Nov., 1936.

.....(Notary Public)

My commission expires:.....

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Exhibit B.

(This Exhibit is a list of the Preferred Stockholders represented by the Independent Committee for the Protection of Preferred Stockholders of Deep Rock Oil Corporation, showing the names, addresses, certificate numbers, and number of shares held—showing in all a total in excess of 9500 shares on deposit with the Independent Committee, omitted pursuant to praecipe.)

Objections of Independent Committee to Proposal of November 9, 1936, for Settlement of the Standard Gas and Electric Company Claim.

To the District Court of the United States for the Northern District of Oklahoma:

Now come John M. Taylor, Oscar A. Kennedy and T. E. Webster, all of Philadelphia, Pa., having constituted themselves under the name and style of "Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation," interveners herein, and herewith state their objections to the written offer of Standard Gas and Electric Company filed on November 9, 1936, to compromise and settle its claim against the Debtor Corporation. These objections are filed in behalf of all holders of preferred stock who have executed powers of attorney to this Committee as appears from the petition for intervention filed by this Committee, reference to which is hereby prayed as fully as if set forth in full herein, and further, in behalf of all holders of preferred stock of the Debtor Corporation who have since executed or shall hereafter execute powers of attorney as appears from time to time from the files and records of this cause, and further in behalf of the holders of preferred stock of the Debtor Corporation as a class. The objections to said compromise proposal are herewith stated as follows:

1. That the proposed settlement of the Standard claim provides for the allowance of a claim of approximately $5,100,000 ahead of the preferred stockholders, when, as a matter of fact and law, the Standard Gas and Electric Company has no claim whatever against the Debtor Corporation. That as the basis for the statement that said Standard has no claim whatever against the Debtor Corporation, we beg leave to refer to the Objections heretofore filed by John M. Taylor and William H. Taylor to the proposed compromise offer made by Standard under date of March 8, 1935, copy of which Objections is attached hereto, marked Exhibit A, and made a part hereof as fully as if set forth in full herein, and that, in addition thereto, such additional reasons as are hereinafter set forth.

2. That, in addition to the reasons set forth in Exhibit A hereof, the Instrumentality Rule is further applicable as a basis for denying the Standard claim for the reason that the securities of the Debtor Corporation consisting of $10,000,000

of notes and $5,000,000.00 of preferred stock were sold to upwards of 6,000 Investors under misrepresentation as to the earnings, assets and financial condition of the Debtor Corporation. That it was represented to the public who purchased these securities that the Debtor Corporation was making a profit at a time when the Debtor Corporation was, in fact, suffering huge losses and while the Federal Income Tax Returns filed by the Debtor Corporation set forth losses instead of profits. That the statements of the financial condition of the Debtor Corporation furnished to the public who purchased the securities showed assets in excess of $50,000,000, when, in fact, the assets were worth but a fraction thereof. That the statements furnished to the public who purchased the securities showed ownership of the "Cracking Plant" at Cushing, Oklahoma, when, in fact, Standard had entered into a fraudulent scheme to divert that asset from the Debtor Corporation and is now claiming that the "Cracking Plant" was owned by another subsidiary of Standard. That the representations to the public in the sale of the securities stated the Debtor Corporation to be in good financial condition, when the testimony in the Record before this court at the hearing of the Standard claim discloses that the Chief Officials of the Debtor Corporation and of Standard considered that the Debtor Corporation was at all times "but one step ahead of the wolf." That said misrepresentations were made by the Top Officers of Standard who were also the Top Officers of H. M. Byllesby & Company, the Holding Company controlling Standard. That said securities were sold through H. M. Byllesby & Company and its affiliates and the proceeds from said security sales were paid into Standard and not to the Debtor Corporation.

3. That, in addition to the grounds set forth in Exhibit A hereof, the Instrumentality Rule is applicable in defeating the claim of Standard in its entirety on account of the grossly fraudulent management of the Debtor Corporation by Standard through its wasteful, incompetent operation of the Debtor Corporation and through its many acts of wilful misconduct constituting conversion of the assets of the Debtor Corporation to its own use to the detriment of the public holding the securities of the Debtor Corporation, and particularly to the detriment of the holders of preferred stock of the Debtor Corporation.

4. Said compromise is further unwarranted for the reason

that under a proper adjudication of the respective rights of the Debtor Corporation and Standard, said Debtor Corporation will be entitled to recover from Standard a sum sufficient to pay in full all the debts of the Debtor Corporation as well as all sums payable to the holders of preferred stock of the Debtor Corporation upon a liquidation of the Debtor Corporation. Said result will accrue upon application of the doctrine of wrongful conversion of Debtor Corporation's assets by Standard on the grounds set forth in Exhibit A and as further shown herein, support for all of which grounds appears in the Record before the court and the written testimony and exhibits taken at the hearing on the merits of the Standard claim, reference to which Record is hereby prayed.

5. That if there is any doubt as to the applicability of the Instrumentality Rule as a basis for defeating the Standard claim, a further accounting be had by disinterested accountants who will seek to review the validity and propriety of the charges made by Standard against Deep Rock, instead of merely seeking to present the Record of the charges made which Record was entirely prepared by employes of Standard under Standard's direction.

6. That the compromise proposal is based upon allowance to Standard of a portion of the items which it seeks to charge against the Debtor Corporation, without taking into account any of the items of countercharges by the Debtor Corporation against Standard on account of illegal, fraudulent and unwarranted charges included in the account between Standard and the Debtor Corporation.

7. That this court is without jurisdiction or right to approve the present compromise proposal for the reason that its adjudication under order dated September 23, 1935, of the former compromise proposal presented by Standard under date of March 8, 1935, is res adjudicata of the issues now before the court. That, from the standpoint of the holders of preferred stock, upon whose objections the former compromise proposal was rejected, the present Standard offer is in all respects similar except that the amount of the allowance to Standard is increased by adding interest from the time of the submission of the first proposal. That under the first compromise proposal which was rejected by the court, Standard was to be allowed a claim of approximately $4,750,000.00 ahead of the preferred stock. That under the present com-

promise proposal the same items are sought to be allowed to Standard as its claim against the Debtor Corporation except that by adding interest from the date of the first proposal, the total claim to be allowed to Standard, ahead of the preferred stock, is $5,100,000.00. That the issues before the court requiring the rejection of the Standard proposal under the order dated September 23, 1935, are exactly the same as the issues now before the court on the present compromise proposal except insofar as there are additional grounds for rejection of the present compromise proposal as set forth herein. That the order of September 23, 1935, entered by the court, was a final order on the merits of the question of whether Standard should be allowed a claim in an amount as high as $4,750,000, which is to be ahead of the preferred stock of the Debtor Corporation. That this court, by rejecting such a proposal, definitely rejected the right of Standard to submit any new proposal that is substantially similar to the one that was rejected.

8. That the compromise proposal is not made in good faith but is made for the purpose of squeezing out the preferred position of the holders of preferred stock of the Debtor Corporation and as a means of avoiding a final adjudication on the merits of the Standard claim, and further as a means of avoiding an adjudication on the question of the liability of Standard to the Debtor Corporation for unlawful diversion of its assets.

9. That said compromise proposal is not made with a view of expediting adjudication of the rights of Standard, inasmuch as the Debtor Corporation has been in receivership since March 1, 1933, and the validity of the Standard claim was questioned at the outset of the receivership. Thus, Standard has had approximately four years in which to adjudicate its claim. Moreover, approximately two years were spent in taking testimony before a Special Master on the question of the merits of the Standard claim and that the testimony was concluded by both sides on February 13, 1935. Thus there have been approximately two years since the conclusion of the taking of testimony that the Standard claim could have been adjudicated on its merits and no question of compromise would be required or involved. Moreover, the Standard proposal, in practically the same form, was rejected by this court on September 23, 1935. Thus, since then, over a year has

elapsed during which the Standard claim could have been adjudicated on its merits. It must thereby be apparent that Standard is seeking to avoid a judicial determination on the merits of its claim against the Debtor Corporation.

10. That said compromise proposal is not made in good faith for the reason that it is not made with a view to terminating the litigation. That Standard is well aware of the objections of the Taylors to their first compromise proposal which was substantially similar to the instant one, and the court, by its order of Sept. 23, 1935, sustained those objections. That Standard was informed by Counsel for the Taylors prior to submission of the instant compromise proposal that it would not meet with the approval of the Taylors or your petitioners, as their successors in interest. That Standard thus well knew that its compromise proposal was not made with a view of terminating the litigation but purely with a view of averting an adjudication on the merits of its claim against the Debtor Corporation.

11. That there is no need for any compromise in view of the fact that this court could on the Record before it in the testimony and proofs taken before the Special Master make a final adjudication on the merits of the Standard claim.

12. That said compromise is unwarranted in failing to take into account the benefits to accrue to the holders of preferred stock of the Debtor Corporation from an adjudication of the liability against the Directors of Standard and of the Debtor Corporation who, for the most part were the same individuals. That by virtue of the gross and fraudulent mismanagement of the Debtor Corporation, the directors of the Debtor Corporation and of Standard, as well as the Directors of the H. M. Byllesby & Company should be held liable to the Trustee of the Debtor Corporation for the benefit of the public holding the securities of the Debtor Corporation. That such a liability is likely to amount to many millions of dollars and is likely to be sufficient to repay in full the lawful debts of the Debtor Corporation and the full amounts payable to the holders of preferred stock of the Debtor Corporation upon a liquidation.

13. That said compromise is unwarranted in failing to take into account the liability of H. M. Byllesby & Company to the Debtor Corporation. That the Top Officers of the said H. M. Byllesby & Company were also the Top Officers of Standard

Gas and Electric Company and the Debtor Corporation and that numerous transactions took place between the Debtor Corporation and H. M. Byllesby & Company of which no proper accounting has been made. That said H. M. Byllesby & Company exercised its domination over the Debtor Corporation in the same manner as did Standard and said H. M. Byllesby & Company should be made to account for all sums unlawfully diverted from the Debtor Corporation. That an accounting should be ordered by the court by disinterested accountants for such purpose.

14. That said compromise is further unwarranted for the reason that it is based upon approval of the Amended Plan of Reorganization which Plan is unfair to the holders of preferred stock of the Debtor Corporation for the reasons set forth by your petitioners in Objections being filed simultaneously herewith to said Amended Plan of Reorganization, reference to which objections is hereby prayed as fully as if set forth in full herein.

15. That said compromise is unwarranted as being made in bad faith inasmuch as it purports to be made by virtue of the suggestion of the court at the hearing of September 23, 1935, that it would consider a fair compromise proposal if immediately made by Standard within some such period as ten days. That the Honorable Franklin E. Kennamer, District Judge, thereupon suggested the terms of a compromise offer which he thought to be acceptable but that the instant proposal by Standard has no resemblance whatever to the suggestion made by the court and is being made over thirteen months after the suggestion by the court was first made, and is being made with a view to circumvent an adjudication on the merits of its claim rather than a desire to expedite the termination of the litigation.

16. That said compromise is unwarranted for the further reason that any claim which Standard may have should be subordinated to the rights of the holders of preferred stock upon application of the principles of the Instrumentality Rule as set forth in Exhibit A hereof and as further contained herein.

17. That in considering the propriety of said compromise proposal regard should be had for the fact that the Trustee's Amended Objections to the claim of the Standard Gas and

Electric Company, reference to which is hereby prayed, while setting forth in a large measure objections properly to be made against said claim, do not include, in many respects, the items of objection as contained herein and in Exhibit A hereof. That reference is hereby made to the petition hereinbefore filed by said John M. Taylor and William H. Taylor for order directing the Trustee to amend his amended objections to Standard's claim. That reference is hereby further prayed to the Trustee's reply to said petition filed on June 3, 1935, wherein said Trustee sets forth that the full nature of objections to the Standard claim are not included in the Amended Objections on file, in order not to embarrass Standard pending an adjudication on the first compromise proposal which was then before the court. That, on page six thereof, it is stated by Trustee as follows: "The Trustee states that in the event the compromise agreement is disproved by the court, he will ask leave of the court to amend his amended objections so as to restore thereto the allegations and prayer as set forth in Exhibits A, A-1, A-2 and A-3, hereto attached." Petitioners show that, although said compromise proposal was rejected on September 23, 1935, no such amendment has been made by the Trustee to Trustee's Amended Objections to the Standard claim.

Wherefore, petitioners pray:

(a) That said Standard compromise proposal be rejected.

(b) That proper and lawful steps be taken for adjudication on the merits of the Standard claim and for a complete accounting as between the Debtor Corporation and Standard and H. M. Byllesby & Co. and the Deep Rock Oil Refining Company and R. J. Graf, Trustee and the directors of said respective corporations.

(c) That this court, if it sees fit, adjudicate forthwith the merits of the Standard claim on the Record before it as contained in the proofs completed before the Special Master.

(d) That this court take such other and further steps as are requisite and necessary for a final adjudication of all controverted issues so as to enable a proper classification of the classes of creditors and security-holders of the Debtor Corporation as the basis for adjudication upon any proposal for a fair plan of reorganization for the Debtor Corporation.

Dated this 3rd day of December, 1936.

JOHN M. TAYLOR,
OSCAR A. KENNEDY,
T. E. WEBSTER,
By H. RUSSELL HASTINGS,
Secretary.

State of Michigan, County of Wayne, ss.

On this 3rd day of December, 1936, before me, a Notary Public in and for said County, personally appeared H. Russell Hastings, to me known to be the person who executed the foregoing instrument and who acknowledged before me that he was duly authorized to execute said instrument in behalf of said petitioners, and that the allegations set forth in said petition are true to the best of his knowledge, information and belief.

EVELYN G. SMITH (Signed)
Notary Public, Wayne County, Michigan.
My commission expires March 17, 1940.

SEMPLINER, DEWEY, STANTON
& HONIGMAN,
By JASON L. HONIGMAN (Signed),
2003-12 Dime Bank Building, Detroit,
Michigan.

MILSTEN AND MILSTEN,
Tulsa Loan Building, Tulsa, Okla.
Attorneys for Petitioners.

Endorsed: Filed Dec. 12, 1936, H. P. Warfield, Clerk U. S. District Court.

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Exhibit A.

United States of America in the District Court for the Northern District of Oklahoma.

In the Matter of Deep Rock Oil Corporation, a corporation, Debtor. No. 2318 (Consolidated). In Bankruptcy.

Objections to Proposed Settlement of Standard Gas and Electric Company Claim.

Now come John M. and William H. Taylor, by Sempliner, Dewey, Stanton & Honigman and Milsten and Milsten, their attorneys, and having heretofore been authorized to intervene in the above suit, herewith state their objections to the pro-

posed settlement of the Standard Gas and Electric Company claim, and show unto this Honorable Court, as follows:

One. That the proposed settlement as recommended by the Trustee and consented to by Standard Gas and Electric Company will mean the allowance of a claim of approximately $4,750,000.00, which will be entitled to priority to the holders of preferred stock in the sharing of the assets of the debtor corporation.

Two. That somewhat less than two years have elapsed since the controversy on the Standard Gas and Electric Company claim and the counterclaim filed by the trustee and his predecessor receivers has been referred to the Honorable Preston C. West, as Special Master, for report on findings of fact and law. That, during that time, many hundreds of pages of testimony have been taken, along with hundreds of pages of interrogatories and exhibits. That, on February 13, 1935, the last of the proofs was taken before the Special Master, and the attorneys for the trustee and for the claimant rested their respective cases. That the present proposed settlement has been drawn up just prior to the time which was to be fixed for the final arguments of the facts and the law before the Special Master.

Three. The facts disclosed by the testimony, records, and exhibits are, for the most part, uncontroverted. It is the position of these objectors that under the facts already before the Special Master there can be no justification for the allowance of any claim whatsoever to the Standard Gas and Electric Company against the debtor corporation.

Four. It is further the position of these objectors that not only does the record in these proceedings disclose that the Standard Gas and Electric Company is not entitled to the allowance of its claim in any amount whatsoever against the debtor corporation, but that the Standard Gas and Electric Company is liable to the debtor corporation's estate in an amount in excess of Fifteen Million Dollars ($15,000,000.00).

Five. The record of these proceedings discloses that the Standard Gas and Electric Company operated the debtor corporation as its own instrumentality, adjunct or alter ego.

Six. The record further discloses that the debtor corporation was completely dominated by the Standard Gas and

Electric Company, its parent company; that the debtor corporation was operated as a part of the business of the Standard Gas and Electric Company; that the debtor corporation had no independent factual existence of its own, but was operated purely for the benefit of the Standard Gas and Electric Company and was entirely subservient to the interests of the Standard Gas and Electric Company.

Seven. The record further discloses that the Standard Gas and Electric Company operated the debtor corporation as a department of its own business without any regard for the interests of the debtor corporation or the outside public to which the debtor corporation was indebted or to the public which held approximately Five Million Dollars ($5,000,000.00) of par value of the Preferred Stock of the debtor corporation.

Eight. The record further discloses that the debtor corporation was originally formed as a new department of the Standard Gas and Electric Company, and that the Standard Gas and Electric Company and its associate interests undertook to pay a purchase price of in excess of Fifteen Million Dollars ($15,000,000.00).

Nine. That Standard Gas and Electric Company and its associate interests sought from the inception to saddle onto the debtor corporation the obligation to pay off this purchase price and failed to supply to the debtor corporation adequate means for the proper operation of its business.

Ten. That from the inception, and for a period of thirteen years, being to the date of receivership, on March 1, 1933, the debtor corporation was kept at all times financially dependent upon the Standard Gas and Electric Company for the operation of its business and was almost continuously throughout that period in imminent danger of having its existence wound up for lack of funds.

Eleven. That, throughout the period of approximately thirteen years of the debtor corporation's corporate existence, the Standard Gas and Electric Company supplied from time to time the necessary funds which the debtor corporation required for the operation of its business. That the advancement of these funds from the Standard Gas and Electric Company to the debtor corporation were necessitated by the inadequate capital structure supplied by the Standard Gas Company. That the advancements thus made by the Standard Gas

and Electric Company to the debtor corporation throughout the period above mentioned were in fact and in law investments of capital by the Standard Gas for the furtherance of the corporate purposes of the debtor corporation.

Twelve. That the Standard Gas Company throughout the period of the corporate existence of the debtor corporation sought, from time to time, to withdraw its necessary capital investments in the debtor corporation thereby fraudulently diverting the assets of the debtor corporation which should have been made available for the payment of the lawful claims of creditors of the debtor corporation and for the protection of the interests of the outside public holding preferred stock of the said debtor corporation, who are entitled to share in the distribution of the assets of the debtor corporation upon the liquidation before the repayment to the Standard Gas and Electric Company of any of its investment in the capital structure of said debtor corporation. That the sums so fraudulently diverted during the period of the corporate existence of said debtor corporation were in excess of Twenty Million Dollars ($20,000,000.00), as appears on page three of Exhibit A attached to the Standard Gas claim. The Standard Gas and Electric Company claim discloses that in excess of Twenty Million Dollars was taken out by the Standard Gas Company from funds belonging to said debtor corporation for application to the credit of the debtor corporation on its self-created account with the debtor corporation, which should have been left in the possession and control of the debtor corporation as an investment by the Standard Gas Company in the capital structure of said debtor corporation.

Thirteen. That, by virtue of the Standard Gas and Electric Company's operating said debtor corporation as its own instrumentality or adjunct, it became liable for all of the debts of the debtor corporation and should be made to account in this proceeding for a sum sufficient to pay all debts of the debtor corporation other than its own claimed debt.

Fourteen. That the said Standard Gas having operated said debtor corporation as its own instrumentality, adjunct or alter ego is liable as the undisclosed principal for all debts incurred and owing by said debtor corporation.

Fifteen. That, in no event, can the Standard Electric Company's claim against the debtor corporation be allowed, by

virtue of its operation of said debtor corporation as a mere instrumentality or adjunct and that the claim of said Standard Gas and Electric Company is in effect a claim against itself. That, in any event, any amount claimed by said Standard Gas and Electric Company in its claim as a balance owing from said debtor corporation should be disallowed as a capital investment of said Standard Gas Company in the capital structure of said debtor corporation.

Sixteen. That, by virtue of the operation of said debtor corporation as an instrumentality, adjunct or alter ego of said Standard Gas and Electric Company, and by virtue of the fraudulent diversion of the funds and assets of said debtor corporation by said Standard Gas and Electric Company, the debts and obligations of the debtor corporation should be deemed the debts and obligations of said Standard Gas Company and said Standard Gas Company should not be permitte to hide behind the separate corporate existence of said debtor corporation as a means of escaping its lawful duties and obligations.

Seventeen. That, under the facts disclosed by the record, the Standard Gas and Electric Company should be adjudged liable under amended pleadings for damages for its fraudulent, wasteful and incompetent management of the affairs of said debtor corporation, and should be adjudged liable to the estate of said debtor corporation in an amount in excess of Twenty Million Dollars ($20,000,000.00).

Eighteen. That the Standard Gas and Electric Company and Byllesby Engineering Company were, by their course of conduct in the handling and operation of debtor corporation actually doing business in the State of Oklahoma, although they were not licensed to carry on any business in that state. That all contracts made by them are thus illegal and the amounts sought to be recovered by Standard must thus be deemed indebtedness accruing from illegal contracts upon which Standard cannot recover.

Nineteen. That the various interest charges and discounts which Standard Gas Company charged to Deep Rock were subterfuges for the charging of usurious interest and as such, Standard Gas Company is liable under the laws of Oklahoma for an amount equal to twice the amount of usurious interest which it charged or collected. That if the usury is determined

to have been committed under the laws of Illinois, in any event, Standard cannot collect the usurious interest or any interest whatsoever by virtue of the laws of Illinois affecting usurious contracts.

Twenty. That the following specific items of charges against said debtor corporation totaling $18,883,031.39 should be disallowed for reasons as hereinafter set forth:

(a) Deep Rock Oil and Refining Company
Rentals ..... $4,525,000.00

From the record, these proceedings fully disclose that the entire lease arrangements between the Debtor Corporation and Deep Rock Oil & Refining Corporation was purely a set-up by the Standard Gas and Electric Company for a fraudulent diversion of the assets of the debtor corporation. That the Deep Rock Oil & Refining Company was purely a dummy corporation formed by the Standard as a means of diverting assets from the debtor corporation; that the property lease was never authorized by either the debtor corporation or the Deep Rock Oil & Refining Company, hereinafter referred to as "Refining Company." That the properties purported to be covered by lease were, in fact and in law, the properties of the debtor corporation. That the rental obligations and other covenants saddle upon the debtor corporation by the action of Standard bore no reasonable relation to a proper and reasonable rental charge for the premises in question. That all of the circumstances in connection with the transaction indicate a purely imaginary deal concocted in the minds of the officials of Standard and having its only evidence in the accounts and papers which they, alone, created and produced. That, by the means of the property lease, and the transactions incident thereto, the Standard Company sought to deprive the debtor corporation of an essential part of its business without which it was impossible for the debtor corporation to carry on its business. That the items of $4,525,000.00 charged for rental are nothing more than bookkeeping fabrications by the Standard Company as a means of fraudulently converting to its own use and benefit the assets of the debtor corporation.

(b) Byllesby Engineering & Management Company:
1. Supervision Fee $1,219,034.83
2. Sundry Charges 230,463.16

The record discloses that these charges are entirely unwar-

ranted and unjustified. That no services were performed by the Byllesby Engineering & Management Corporation. That the Standard Gas owns all of the outstanding capital stock of the Byllesby Engineering & Management Corporation, and that the two corporations are so intertwined in the nature of their personnel and in the operation of their business as to be deemed a single entity. That the amount of $1,219,034.83 had no basis in fact and was purely a fraudulent concoction by the Standard Gas as a means of diverting the funds and assets of the debtor corporation. That the items included in the Sundry Charges of $230,463.16 were for the most part purely arbitrary charges and allocations by Standard to the debtor corporation for expenses incurred in the business of the Standard Gas and Electric Company in connection with which the debtor corporation was neither consulted or given an independent opportunity to agree. That all of the amounts listed as assumption of open accounts with Byllesby Engineering & Management Company are purely bookkeeping numbers created by the Standard Gas and Electric Company by *entires* made upon the various pages of its books that bore the names of one of its intertwined corporations, including the Byllesby Engineering and Management Corporation, and including also the debtor corporation.

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| (c) | H. M. Byllesby & Company | $752,647.10 |
| | Compensation paid | 143,425.00 |
| | Compensation paid | 168,775.00 |
| | Compensation paid | 107,850.49 |

The item of $752,746.10 includes numerous items arbitrarily fixed by Standard and its associates without any justification and without any voice by the debtor corporation. The items included in said sum are purely bookkeeping transaction, created and set up between Standard and its associate, H. M. Byllesby & Company, which latter corporation owns the controlling interest in said Standard Gas and Electric Company and whose *officerts* and personnel are, for the most part, interchanged with the officers and personnel of the Standard Gas & Electric Company.

The item of $143,425.00 paid to H. M. Byllesby & Company was merely a diversion of funds by Standard and was an unreasonable charge for services performed. That the services for extension of the $10,000,00 note issue were primarily in the interests and for the benefit of the Standard Gas for the

protection of its investment in the debtor corporation and that there was no justification for any charge being made to the debtor corporation.

The item of $168,775.00 does not appear in the Standard Gas account Exhibit A although it was paid by the debtor corporation directly to H. M. Byllesby & Company for the same services as described in the last mentioned item and is objectionable for the same reasons.

The item of $107,850.49 was paid by debtor corporation to H. M. Byllesby & Company in 1922. It was a charge for organization expenses which was apparently paid directly to H. M. Byllesby & Company and which, therefore, does not appear on the Standard Company's books as a part of its account against the debtor corporation.

The Byllesby interests in creating the debtor corporation were merely carrying on the creation of a new project from which they expected a profit, by virtue of the business that was to be done by the debtor corporation. There is no basis for justification of a charge against the debtor corporation for organization expenses which were a part of the function and project of the Byllesby interests, including the Standard Gas Company.

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| (d) | Dividends on Preferred Stock | $1,555,981.00 |
| | Dividends on Common Stock | 1,946,672.00 |

That the declaration of dividends on preferred and common stock owned by Standard Gas and Electric Company was entirely unwarranted. That there were no profits or surplus justifying the declaration of the dividends in question. That the books and records of the debtor corporation fail to disclose proper reservations for depreciation and depletion, and thereby were made to create an apparent profit and surplus which, in fact, never existed. That the Standard Gas, in the course of its complete and absolute domination of the debtor corporation, determined for itself when it desired to divert funds from the debtor corporation without any regard to the true financial condition or financial needs of the debtor corporation. That the declaration and payment of the dividends in question was in fact nothing more than an additional fraudulent diversion of funds by the debtor corporation

(e) Sale of Shaffer Oil & Refining Company 8's of 1923 to Company $451,237.33

The above charge was made by Standard Gas and Electric Company as a payment to itself for services it performed in the sale of notes issued by the debtor corporation. This charge is purely an arbitrary charge fixed by the Standard Company by virtue of its domination of the debtor corporation. Such services as were performed by Standard in the sale of these notes were primarily for their own benefit in protecting their investment in the debtor corporation and in providing the debtor corporation with the funds which it needed for its operations and which should have been provided by the Standard Company in course of any honest administration of the affairs of the debtor corporation.

(f) Acquisition of Common Stock of Home Oil Company $175,000.00

This sum was charged by Standard to the debtor corporation for its services in acquiring for the debtor corporation the additional properties consisting of the common stock of the Home Oil Company. The charge is purely an arbitrary one fixed by the Standard Company by virtue of its domination of the debtor corporation. Such services as were performed were primarily for the benefit of Standard in the enhancement of the value of its capital investment in the debtor corporation. No basis appears in the record from which it may be determined whether the work of acquisition of the Home Oil Company was performed by employes by virtue of their interest in Standard Gas and Electric Company or by virtue of their employment with the debtor corporation. The record further discloses nothing to indicate that the debtor corporation acquired the common stock of the Home Oil Company for any sum less than was reasonable by virtue of any services performed by Standard.

(g) Payment of Federal Income Tax of Deep Rock Oil & Refining Corp. $ 29,565.91
Sundry Expenditures 1,087,569.57

The item of $29,565.91 is for income taxes paid charged to debtor corporation by virtue of payment of income tax for Deep Rock Oil & Refining Corporation. In addition to this item, $81,000 was paid for 1927 Federal Income taxes and another $81,000 for 1928 Federal Income Taxes of Deep Rock

Oil & Refining Company, and charged by Standard to debtor corporation and included in the total of $1,087,569.57 of "Sundry Expenditures." These income tax charges were incurred purely by the creation of a fictitious profit for the Refining Company as a dummy corporation for Standard which the latter used as an instrumentality for diverting funds from debtor corporation. The Standard Company indicates by these charges that it sought not only to charge the debtor corporation with the rental sums as a means of fraudulently diverting the debtor corporation's assets but also with these tax items, which were in effect expenses incident to the diversion.

The remaining charges of these sundry expenditures are purely items created by Standard in its own discretion and allocated to the debtor corporation at its own will and pleasure.

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| (h) | Discount on Deep Rock Notes: | |
| 1. | $10,000,000 note issue, discount | $600,000.00 |
| 2. | 7,500,000 note issue, discount | 275,000.00 |
| 3. | 4,250,000 note, discount | 170,000.00 |
| 4. | 1,057,300 8% note, discount | 90,000.00 |
| 5. | 100,500 6% Bond, discount | 20,000.00 |

All of the foregoing discounts were arbitrarily fixed and determined by Standard by crediting the debtor corporation with less than the face value of the notes which it received. The relationship between Standard and the debtor corporation was such as to preclude from any fair or equitable standard the charging of any discount by Standard upon advancements, if they were such, to the debtor corporation.

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| (i) | Interest on Open Account Balances | $4,819,222.07 |
| | Interest on Notes Receivable | 184,087.93 |
| | Interest on Five Year Six Per Cent Notes Owned by Standard Gas and Electric Company | 331,500.00 |

The interest on the open account consists of charges for interest on an indebtedness which was never owing in the first instance. If the advancements by Standard to the debtor corporation are deemed investments of capital, then there is no debt on which Standard can charge interest to the debtor corporation. If the specific items hereinbefore referred to are disallowed, there likewise would be no debt upon which interest

could be charged by the debtor corporation. In any event, the interest figures are purely arbitrary ones fixed by Standard. The interest charge is a seven per cent charge compounded daily which, under all of the circumstances must be deemed an unfair and usurious charge as between the Standard Company and its completely dominated subsidiary, the debtor corporation. In part, the interest items included charges of eight per cent interest on outstanding notes which, when due, are added to the open account and interest is thereafter compounded daily at the rate of seven per cent per annum.

The discussion with reference to the interest charge on the open account is also applicable to the interest items on outstanding notes of the debtor corporation which were from time to time held by Standard. The notes were in all instances Standard's own creation and the interest rates were in all instances fixed by Standard and the determination whether to pay or not to pay was likewise made by Standard.

Twenty-one. That the record in the proceedings before the Honorable Special Master fails to disclose any independent audit made of the books of the debtor corporation with a view of determining how much of the funds were diverted from the debtor corporation which do not appear on the account submitted by the Standard Gas and Electric Company. That in the face of the extensive series of malevolent practices on the part of the Standard against the debtor corporation, it is reasonable to suppose that other items of fraudulent diversion of funds may be uncovered by a thorough audit of the books of the debtor corporation. That a determination of the fairness of the proposed settlement can in no event be made in the absence of such an examination and audit.

Twenty-two. That, in the event that, in the opinion of the Honorable Special Master, it does not specifically appear from the present record that the corporate structure of the debtor corporation should be disregarded from the standpoint of determination of the liability and claim of Standard Gas and Electric Company, that the proceedings be reopened for further proofs which, in the opinion of your objectors, should be obtainable in support of the contentions herein made.

John L. Gray, who was the Chief Operating Officer of the debtor corporation during the last nine years of its existence, and who was one of the two plaintiffs who instituted the

original receivership action against the debtor corporation on February 28, 1933, should be able to disclose material and vital elements in connection with the relationships between the debtor corporation and Standard. From the record it does not appear that said John L. Gray was sought to be produced as a witness by either Standard or the Trustee. That, in the event of the reopening of the proceedings for further testimony it may be necessary to produce and examine additional witnesses in support of this claim of liability on the part of these objectors against Standard.

Twenty-three. Wherefore, the objectors ask that the Honorable Special Master shall find:

(a) That the proposed settlement of the Standard Gas and Electric Company claim should be rejected by this Honorable Court.

(b) That the proposed settlement is unwarranted and unjustifiable.

(c) That the amended pleadings be permitted in behalf of these objections and/or the trustee to charge the Standard Gas and Electric Company with liability over and above the amount of its claim in an amount in excess of $20,000,000 for the various reasons as hereinbefore set forth.

(d) That the amended pleadings be permitted in behalf of these objectors and/or the trustee to subject to the jurisdiction of this Honorable Court as a part of these proceedings all of the property and assets of Deep Rock Oil & Refining Company as in fact and in law assets of the debtor corporation; and that R. J. Graf be ordered to appear before this court under summary proceedings for the delivery to the trustee of the debtor corporation of the deed which he holds to a part of the refinery known as the "Cracking Plant" which, in fact, and in law, is an asset of the debtor corporation, and to which said R. J. Graf has no colorable claim.

Twenty-four. These objections to the proposed settlement of the Standard Gas and Electric Company claim are filed in behalf of these objectors and of all other holders of preferred stock of said debtor corporation similarly situated, and for such further benefit as may accrue to the true and lawful creditors of said debtor corporation. These objections are based upon the files and records of these proceedings and are

accompanied by detailed analysis of the facts and law, reference to which is hereby prayed as fully as if included in full herein.

Dated this 21st day of March, 1935.

SEMPLINER, DEWEY, STANTON & HONIGMAN,
By JASON L. HONIGMAN,
Detroit, Michigan.
MILSTEN & MILSTEN, Tulsa, Okla.
Attorneys for John M. and William H. Taylor,
Interveners.

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Objections of Independent Committee to Amended Plan of Reorganization of Debtor Corporation.

Now come John M. Taylor, Oscar A. Kennedy and T. E. Webster, all of Philadelphia, Pa., having constituted themselves under the name and style of "Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation," Interveners herein, and herewith state their objections to the Amended Plan of Reorganization of Debtor Corporation filed on November 9, 1936. These objections are filed in behalf of all holders of preferred stock who have executed powers of attorney to this Committee, as appears from the petition for intervention filed by this Committee, reference to which is hereby prayed as fully as if set forth in full herein, and further, in behalf of all holders of preferred stock of the Debtor Corporation who have since executed or shall hereafter execute powers of attorney, as appears from time to time from the files and records of this cause, and further, in behalf of the holders of preferred stock of the Debtor Corporation as a class. The objections to said Amended Plan of Reorganization of Debtor Corporation are herewith stated as follows:

I That said Amended Plan of Reorganization is unfair to the holders of Preferred Stock of the Debtor Corporation by reason of its depriving said holders of Preferred Stock of their preferred position in sharing in the assets of the Debtor Corporation. That, by the terms of the contract of the Debtor Corporation with its holders of Preferred Stock, said holders are entitled to be repaid upon a liquidation of the Debtor Corporation One Hundred Dollars ($100.00) per share, and in addition thereto, cumulative dividends at the rate of Seven Dollars

($7.00) per annum. That there is thereby due to the holders of Preferred Stock of the Debtor Corporation Five Million Dollars ($5,000,000.00) in principal amount, and in excess of Two Million Dollars ($2,000,000.00) for cumulated dividends which amounts are payable to them before any distribution is made to the holders of the Common Stock of the Debtor Corporation. That, by the terms of said Amended Plan the Standard Gas and Electric Company, who is, practically speaking, the owner of all of the Common Stock of the Debtor Corporation, is removing the preferred position of said holders of Preferred Stock and giving them, in its place, nineteen and one-half per cent (19½%) of the equity in the assets of the Debtor Corporation, while retaining for itself seventy-three per cent (73%) of the equity in the assets of the Debtor Corporation.

II. That said Amended Plan is unfair to the holders of Preferred Stock of the Debtor Corporation in that it is based upon a compromise of the claim of Standard Gas and Electric Company for an amount that is unwarranted under the facts and law applicable to the relationship and dealings between Standard and Debtor Corporation, as is more fully set forth in the objections being filed simultaneously herewith by your petitioners, entitled "Objections of Independent Committee to Proposal of November 9, 1936, for Settlement of the Standard Gas and Electric Company Claim," reference to which is hereby prayed as fully as if set forth in full herein.

III. That said Amended Plan is illegal and unfair to the holders of Preferred Stock of the Debtor Corporation in that it eliminates the preferred position of said holders of Preferred Stock for the benefit of Standard, without any adjudication on the merits of the Standard claim.

IV. That said Amended Plan is illegal and unfair to the holders of the Preferred Stock of Debtor Corporation in that it eliminates the preferred position of the holders of Preferred Stock of Debtor Corporation for the benefit of Standard by allowance of a claim in excess of Five Million Dollars ($5,000,000.00) to Standard, when, in fact, Standard has no claim whatever, as acknowledged by the court in the proceedings of September 23, 1935, at which the original compromise proposal of the Standard claim was heard, reference to which proceedings is hereby prayed.

V. That said Amended Plan is unfair to the holders of the Preferred Stock of Debtor Corporation in that it is not based

upon a fair and adequate appraisal of the assets of the Debtor Corporation. That a fair and adequate appraisal of the assets of the Debtor Corportion would show a valuation in excess of Twenty Million Dollars ($20,000,000.00) which would be sufficient to pay off the noteholders in full the face amount of their notes and leave an equity of Five Million Dollars ($5,000,000.00) for the holders of the Preferred Stock, even after allowing the Standard claim at Five Million Dollars ($5,000,000.00).

VI. That said Amended Plan is unfair to the holders of Preferred Stock of Debtor Corporation in that it gives them no opportunity to recoup their investment, in the event of any increased value in the assets of the Debtor Corporation. That, on assets having a book value of over Fifty Million Dollars ($50,000,000.00), Standard is given a seventy-three per cent (73%) interest in the equity above Ten Million Dollars ($10,000,000.00) of notes as compared to a nineteen and one-half per cent (19½%) interest to the holders of Preferred Stock. That, if the assets of the Debtor Corporation, the book value of which was always maintained under Standard's direction and control, ever reach the amount of the book values set therefor by Standard, Standard would receive for a claim of Five Million Dollars ($5,000,000.00), assets having a valuation of approximately Thirty Million Dollars ($30,000,000.00).

VII. That said Amended Plan is unfair to the holders of the Preferred Stock of the Debtor Corporation in that the Common Stock is proposed to be allocated on an unfair basis. That, by getting 380,000 shares of Common Stock for a claim of Five Million Dollars ($5,000,000.00), Standard is receiving the Common Stock on a basis of approximately Fourteen Dollars ($14.00) per share. That the Noteholders are waiving approximately One Hundred and Eighty Dollars ($180.00) of interest per One Thousand Dollar ($1,000.00) bond for four (4) shares of Common Stock, which Common Stock is thus costing them approximately Forty-five Dollars ($45.00) per share. That the holders of Preferred Stock of the Debtor Corporation are being deprived of a liquidating right of One Hundred Dollars ($100.00) per share of principal and approximately Forty Dollars ($40.00) in cumulated dividends, making a total of One Hundred and Forty Dollars ($140.00) for two (2) shares of Common Stock, or a cost of approximately Seventy Dollars ($70.00) per share of Common Stock to the holders of the Pre-

ferred Stock. That by this *allignment* Standard is getting approximately five (5) times as much for the indebtedness to it as are the holders of Preferred Stock for the rights which they have against the Debtor Corporation, which rights amount to Five Million Dollars ($5,000,000.00) in principal amount and approximately Two Million Dollars ($2,000,000.00) in cumulated dividends, for a total of Seven Million Dollars ($7,000,000.00).

VIII. That said Amended Plan is unfair to the holders of Preferred Stock of the Debtor Corporation in that no provision is made for benefits which would accrue primarily to the holders of Preferred Stock of the Debtor Corporation upon a suit which should rightfully be brought against the Directors of the Debtor Corporation, of Standard and of H. M. Byllesby & Company and no provision is made for benefit that would accrue to the holders of preferred stock of the Debtor Corporation upon an accounting from Standard and from H. M. Byllesby & Company on account of the diversion of the Debtor Corporation's assets and the illegal withdrawal of capital investment in the Debtor Corporation, as is more fully set forth in petitioners' objections to Standard's proposal, reference to which is hereby prayed.

IX. That said Amended Plan is unfair to the holders of the Preferred Stock of the Debtor Corporation in that Standard is receiving for unadjudicated rights seventy-three and one-half per cent (73½%) of the equity in the assets of the Debtor Corporation, whereas, the holders of Preferred Stock are receiving for definite legal right to Seven Million Dollars ($7,000,000.00) upon liquidation of the Debtor Corporation, a total of but nineteen and one-half (19½) per cent of the Common Stock of the Debtor Corporation.

X. That said Amended Plan is unfair to the holders of Preferred Stock of the Debtor Corporation in that the present Reorganization Committee, who is sponsoring said Plan was initiated by H. M. Byllesby & Company and is under the direction and control of John J. Shinners as Chairman, who is an employe of H. M. Byllesby & Company, and that said H. M. Byllesby & Company is the Top Holding Company controlling Standard and whose chief Officers are the same individuals who were the chief Officers of Standard and of the Debtor Corporation. That the other members of said Reorganization Committee were personally chosen by said John J. Shinners. That the

interest of H. M. Byllesby & Company in the protection of the rights of Standard Gas and Electric Company is such as to warrant the conclusion that said Reorganization Committee is not a disinterested committee in the protection of the rights of the public who hold securities of the Debtor Corporation. That said Reorganization Committee sponsored the original Plan of Reorganization which contemplated almost a complete wiping out of the rights of the holders of the Preferred Stock of the Debtor Corporation and which the court found to be unconscionable at the hearing of September 23, 1935. That said Reorganization Committee has been instrumental in furthering the aim of Standard to avoid an adjudication on the merits of its claim by joining with Standard in approving the original compromise proposal as well as the present one and sponsoring the attitude of submission of settlement efforts rather than adjudicating the legal rights of the relationship between the Debtor Corporation and Standard, as well as the Debtor Corporation and H. M. Byllesby & Company. That said Reorganization Committee procured the deposit of in excess of two-thirds of the notes of the Debtor Corporation and in excess of fifty (50%) per cent of the Preferred Stock of the Debtor Corporation in approval of the original plan of reorganization before any security holders made any attempt to determine the true facts in the relationship between Standard and the Debtor Corporation. That said Reorganization Committee has abused its position of trust to the security holders who deposited with them, in failing to protect the best interests of the security holders under circumstances that required such protection. That said Reorganization Committee by representing both the holders of Notes and Preferred Stock of the Debtor Corporation has not been diligent in the protection of the rights of the holders of Preferred Stock and by its original plan and amended plan has sought merely to protect to a limited degree the rights of the Noteholders of the Debtor Corporation.

XI. That said Amended Plan is unfair to the holders of the Preferred Stock of the Debtor Corporation in that it gives them no reasonable opportunity to rehabilitate their losses on account of their investment in the Debtor Corporation.

XII. That said Amended Plan is unfair to the holders of the Preferred Stock of the Debtor Corporation in that, by giving seventy-three per cent (73%) of the Common Stock of the Debtor Corporation to Standard, it leaves the management

of the Debtor Corporation in the hands of the same persons who were guilty of gross mismanagement and unlawful diversion of the assets of the Debtor Corporation as well as guilty of *wilful* misconduct amounting to actual fraud in the withdrawal of assets from the Debtor Corporation for the benefit of Standard and H. M. Byllesby & Company.

XIII. That by providing for control by the court until the notes are reduced to Five Million Dollars ($5,000,000.00), said Amended Plan still provides no adequate protection to the holders of Preferred Stock, in that thereafter the majority control will still be in the hands of the same people who were guilty of mulcting the Preferred Stockholders in their handling of the Debtor Corporation.

XIV. That said Amended Plan is unfair, in that it is not for the best interests of the Debtor Corporation that control thereof through appointment of executive director by the court should be retained for any considerable period. That it is a matter of common knowledge that the affairs of business are best handled when not subjected to Judicial control, except as legal rights of individuals having an interest in the corporation are violated. That it is generally regarded that a properly managed Company can do a better business when out of receivership than while under it, and that subjecting the Debtor Corporation to the type of control provided for in the Amended Plan has in many respects the same limitations upon the successful operation of a corporation as are to be found in the operation of a corporation under receivership.

XV. That the unfairness of said Amended Plan should be considered by the court without regard to the number of security holders who object thereto, in view of the wide distribution of the securities. That there are in the neighborhood of five thousand noteholders and over fifteen hundred holders of Preferred Stock of the Debtor Corporation. That those security holders are resident in all parts of the United States and in the vast majority of cases at a great distance from Tulsa, Okla. That the holders of securities of the Debtor Corporation have, for the most part, but small holdings which cannot warrant the expense of investigation or litigation for the protection of their investments.

XVI. That the said Amended Plan is unfair to the holders of Preferred Stock of the Debtor Corporation as adjudicated by this court in the hearing of September 23, 1935, reference to

which proceedings is hereby prayed. That at that time this court set forth its notions of a fair Plan of Reorganization. That, in the submission of the instant Plan, said Reorganization Committee has completely disregarded the expressed opinion of this court, and has offered to the holders of Preferred Stock but a fraction of the rights proposed by this court to be given to said holders.

Wherefore, petitioners pray that said Amended Plan of Reorganization be rejected.

Dated this 3rd day of December, 1936.

JOHN M. TAYLOR,
OSCAR A. KENNEDY,
T. E. WEBSTER,
By H. RUSSELL HASTINGS (Signed)
Secretary, Petitioners.

State of Michigan, County of Wayne, ss.

On this Third day of December, 1936, before me, a Notary Public in and for said County, personally appeared H. Russell Hastings, to me known to be the person who executed the foregoing instrument and who acknowledged before me that he was duly authorized to execute said instrument in behalf of said petitioners, and that the allegations set forth in said petition are true to the best of his knowledge, information and belief.

EVELYN G. SMITH (Signed)
Notary Public, Wayne County, Michigan.
My commission expires March 17, 1940.

SEMPLINER, DEWEY, STANTON
& HONIGMAN,
By JASON L. HONIGMAN (Signed),
2003-12 Dime Bank Building, Detroit,
Michigan.
MILSTEN AND MILSTEN,
Tulsa Loan Building, Tulsa, Okla.
Attorneys for Petitioners.

Endorsed: Filed Dec. 7, 1936. H. P. Warfield, Clerk, U. S. District Court.

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Objections of William H. Taylor and John M. Taylor to Amended Plan of Reorganization and to Proposed Compromise of Claim of Standard Gas and Electric Company.

Come now John M. Taylor and William H. Taylor, interveners herein, and hereby formally object to the proposed

Amended Plan of Reorganization filed in these proceedings on November 9, 1936, and to the proposed compromise of the claim of Standard Gas & Electric Company, also filed herein on said date, for the following reasons, to-wit:

First: For the reason that said Amended Plan of Reorganization is inequitable, in that it provides for an advantage in favor of the said Standard on the basis of a creditor having rights superior to preferred stockholders, whereas, in truth and in fact, the rights of the preferred stockholders are paramount to the rights of the said Standard, under its purported claim, for the reason that said Standard is not a bona fide creditor of the debtor, but, under the instrumentality rule, should be treated as a common stockholder whose rights are junior, subordinate, and inferior to the rights of preferred stockholders.

Second: Interveners further reiterate their objections heretofore made to the original Plan of Reorganization, and adopt them as objections to the Amended Plan of Reorganization, as fully as if recited herein at length.

Third: These interveners object to the allowance of the claim filed by Standard, either as originally filed or as reduced in their proposed compromise offer, for the reason that, under the Instrumentality Rule, the said Standard is responsible for the insolvent condition of debtor and is not in equity entitled to the allowance of its said claim on any sum whatsoever, to the prejudice of the note-holders and preferred stockholders of the debtor.

JOHN M. TAYLOR and WILLIAM H. TAYLOR,
Interveners.
By SEMPLINER, DEWEY,
STANTON & HONIGMAN and
MILSTEN & MILSTEN,
By TRAVIS I. MILSTEN, (Sgd.)
Their Attorneys.

Endorsed: Filed Dec. 7, 1936. H. P. Warfield, Clerk U. S. District Court.

Affidavit.

State of Illinois, County of Cook, ss.

R. Miles Warner, being first duly sworn, on oath deposes and says that he is the Secretary of the Reorganization Committee constituted by and acting under a certain Deposit Agreement dated as of August 9, 1934, and as amended under date of November 10, 1936, for the Deep Rock Oil Corporation, which is the Debtor in the above-entitled cause; that he is the Secretary of said Reorganization Committee referred to in the fourth paragraph of order number 137 entered herein on November 9, 1936; that he is duly authorized on behalf of said Reorganization Committee to execute this affidavit; that on November 12, 1936, said Reorganization Committee's duly authorized agents, under affiant's supervision, mailed to each of the creditors and stockholders of said Debtor known to said Reorganization Committee a copy of the Amended Plan of Reorganization filed herein by the Debtor on November 9, 1936, and a copy of the written offer and proposal of Standard Gas and Electric Company filed herein on November 9, 1936, to compromise and settle its claim against the Debtor, Deep Rock Oil Corporation; and further notified said creditors and stockholders who have heretofore accepted said original Plan of Reorganization that they may, if they so desire, withdraw their acceptance of said original Plan of Reorganization and their deposited securities, by a written request to do so, accompanied by a surrender of their respective Certificates of Deposit, properly endorsed, filed with the Reorganization Committee or their said Depositaries, on or before December 5, 1936; said mailed matter is in the form attached hereto and made a part hereof as Exhibit A; all in compliance with order number 137 entered herein on November 9, 1936.

Further affiant sayeth not.

R. MILES WARNER.

Subscribed and sworn to before me this 7th day of December, 1936. F. J. Maguire, Notary Public. (Seal).

Endorsed: Filed Dec. 12, 1936. H. P. Warfield, Clerk, U. S. District Court.

Exhibit A.

[Clerk's Note] (This Exhibit is a copy of the Amended Plan of Reorganization, Reorganization Committee's explanatory letter to the security holders and the Amended Deposit Agreement and appears in this Record as Reorganization Committee's Exhibit #1. Omitted pursuant to praecipe.)

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Order on Proposal of Amended Plan of Reorganization Filed Herein by the Debtor on November 9, 1936.

This Cause coming on to be heard on the 12th day of December, 1936, upon the petition of the Debtor, Deep Rock Oil Corporation, filed herein November 9, 1936, pursuant to the provisions of Section 77b of the Bankruptcy Act of the United States, as amended, and with the authority and permission of the court, pursuant to its order entered November 9, 1936, and the court finding that due notice of this hearing has been given to all creditors and stockholders of the Debtor, and to all parties in interest, in accordance with Section 77b of the Bankruptcy Act of the United States, as amended, and pursuant to the terms of the order of this court entered on November 9, 1936, in respect thereto; and the court, further finding that the Debtor desires to propose amendments to the Plan of Reorganization proposed herein by the Debtor on August 20, 1934, and to propose said plan, as amended, in the form of the amended plan of reorganization filed herein November 9, 1936, and that the Debtor desires to propose said amended plan in good faith and pursuant to the provisions of Section 77b of the Bankruptcy Act, as amended, at a hearing duly noticed for its consideration; and the court further finding that the amended plan of reorganization of the Debtor was filed herein in good faith by the Debtor on November 9, 1936; and the court being fully advised in the premises, It Is Therefore Found, Ordered, Adjudged and Decreed:

1) That the action of the Debtor in filing herein the amended plan of reorganization on November 9, 1936, for the consideration and approval by this court, be and the same is hereby approved and confirmed.

2) That the plan of reorganization proposed herein by the Debtor on August 20, 1934, has been duly amended in accordance with the terms and provisions of Section 77b of the Bankruptcy Act, as amended, and the orders of this court by the

filing herein, on November 9, 1936, by the Debtor of the said amended plan of reorganization.

3) That the amended plan of reorganization filed herein by the Debtor on November 9, 1936, has been duly proposed in this proceeding as a plan of reorganization at a hearing duly noticed for its consideration and in accordance with the terms and provisions of Section 77b of the Bankruptcy Act, as amended.

4) All of the terms and provisions of the order of this court numbered 137, entered herein November 9, 1936, are hereby approved, ratified and confirmed.

Enter:

F. E. KENNAMER, (Sgd) Judge.

Dated:.....

Endorsed: Filed Dec. 17, 1936. H. P. Warfield, Clerk, U. S. District Court.

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In the District Court of the United States for the Northern District of Oklahoma.

In the Matter of Deep Rock Oil Corporation, a Corporation, Debtor Corporation. In Bankruptcy No. 2318. Consolidated.

Order Permitting Intervention of John M. Taylor, Oscar A. Kennedy and T. E. Webster as Independent Committee for the Protection of the Holders of Preferred Stock of the Deep Rock Oil Corporation.

Now on this 12th day of December, 1936, this matter came on for hearing on the petition of John M. Taylor, Oscar A. Kennedy and T. E. Webster, as the "Independent Committee for the Protection of the Holders of Preferred Stock of the Deep Rock Oil Corporation" for leave to intervene in these proceedings and to be substituted for John M. Taylor, and William H. Taylor, Interveners herein, pursuant to the application filed herein on December 7, 1936, and it appearing to the court that said application and petition should be granted;

It Is, Therefore, Ordered that John M. Taylor, Oscar A. Kennedy and T. E. Webster as the "Independent Committee for the Protection of the Holders of the Preferred Stock of

the Deep Rock Oil Corporation" should be and they are hereby permitted to intervene in these proceedings and are hereby substituted as Interveners herein in the place and stead of John M. Taylor and William H. Taylor, Interveners, and said petitioners are hereby made a party to all proceedings in this case.

F. E. KENNAMER, (Sgd.) Judge.

Endorsed: Filed Dec. 22, 1936. H. P. Warfield, Clerk, U. S. District Court.

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In the District Court of the United States for the Northern District of Oklahoma.

In the Matter of Deep Rock Oil Corporation, a corporation, Debtor. In Bankruptcy No. 2318 Consolidated.

Return and Certificate of Trustee.

Comes H. N. Greis, Trustee, and in obedience to prior orders of this court, attaches hereto and files herewith consolidated balance sheet of Deep Rock Oil Corporation and subsidiary companies as of October 1, 1936, including assets of Deep Rock Oil and Refining Company, together with appraisal of properties of Deep Rock Oil Corporation and subsidiary companies as of September 1, 1936, including properties of Deep Rock Oil and Refining Company; and said Trustee hereby certifies that said balance sheet and appraisal are true and correct.

Dated this 11th day of December, 1936.

H. N. GREIS, Trustee.

Endorsed: Filed Dec. 12, 1936. H. P. Warfield, Clerk, U. S. District Court.

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Trustee's Final Appraisal, 12/8/36.

Deep Rock Oil Corporation, in Bankruptcy, and Subsidiary Companies. Real Estate, Oil and Gas Leases, Oil Wells and Equipment, Pipe Lines, Tank Cars, Refineries, Distributing Stations, and Facilities, Etc. (as Appraised) as of September 1. 1936, Including Properties of Deep Rock Oil and Refining Company.

| | | |
|---|---|---|
| Producing Department: | | |
| Undeveloped Oil and Gas Leases and Royalty Interests | $ 412,557.80 | |
| Underground Oil and Gas Reserves and Equipment | 4,360,702.45 | |
| Fee Lands | 17,150.00 | |
| Warehouses, Shops and Camps | 63,007.52 | |
| Cleaning Out and Fishing Tools | 28,523.13 | |
| Core Drilling Equipment | 5,673.95 | |
| Telephone System | 30,172.37 | |
| Automobiles, Trucks and Tractors | 19,630.00 | |
| Norfolk Gas System | 98,525.23 | |
| | | $5,035,942.45 |
| Pipe Line Department: | | |
| Buildings, Equipment and Pipe Lines | $ 719,934.95 | |
| Automobiles and Trucks | 4,200.00 | |
| | | $ 724,134.95 |
| Casinghead Gasoline Department: | | |
| Buildings and Equipment | $ 93,608.98 | |
| Automobiles and Trucks | 1,675.00 | |
| | | $ 95,283.98 |
| Cushing Refinery: | | |
| Real Estate | $ 14,045.00 | |
| Buildings and Equipment | $1,706,603.03 | |
| | | $1,720,648.03 |
| Tank Cars | | $ 291,481.99 |
| Distributing Department: | | |
| Real Estate | $ 572,561.25 | |
| Buildings and Equipment | 843,208.94 | |
| Available Equipment | 3,436.51 | |
| Loaned Equipment | 82,694.57 | |
| Automobiles and Trucks | 85,658.83 | |
| Truck Tanks | 32,335.50 | |
| | | $1,619,895.60 |
| Tulsa Office: | | |
| Furniture and Fixtures | $ 21,461.37 | |
| Total | | $9,508,848.37 |

The above values were determined by representatives of the Trustee, based on an actual intentory taken as of September 1, 1936, and are predicated on each unit being an integral part of a complete and going concern.

The appraised value of Deep Rock Oil and Refining Company properties included in above values is $312,288.13.

December 8, 1936.

Consolidated Balance Sheet, Deep Rock Oil Corporation, in Bankruptcy, and Subsidiary Companies, as of October 31, 1936, Including Assets of Deep Rock Oil and Refining Company.

**Assets:**

| | | | |
|---|---|---|---|
| Real Estate, Oil and Gas Leases, Oil Wells and Equipment, Pipe Lines, Tank Cars, Refineries, Distributing Stations, and Facilities, Etc. (as Appraised) | | | $9,508,848.37 |
| Securities Owned | | | 22,303.99 |
| Deep Rock Oil Corporation—Convertible 6% Gold Notes Acquired | | | 23,500.00 |
| Cash in Banks and in Transit | | $4,460,818.08 | |
| Notes Receivable | $ 71,396.03 | | |
| Accounts Receivable | 1,669,748.33 | | |
| Reserve for Bad Debts | *575,155.18* | 1,165,989.18 | |
| Inventories | | 2,578,398.97 | 8,205,206.23 |
| Escrow Deposits | | 257,500.00 | |
| Other Special Funds | | 10,377.67 | 267,877.67 |
| Federal Income Tax Refunds Receivable | | | 76,484.26 |
| Advances to Agents | | 22,377.27 | |
| Prepaid Accounts and Deferred Charges | | 72,737.14 | |
| Miscellaneous Deposits | | 3,708.00 | 98,822.41 |
| Total | | | $18,203,042.93 |

The "Property Account" is stated at appraised value as of September 1, 1936.

The securities included in the "Securities Owned Account" are at values considered representative of their worth.

All other assets and liabilities are stated at amounts as reflected by the books of the Trustee and the books of the subsidiary companies after giving effect to certain consolidations and minor adjustments, which amounts are thought to be approximately correct.

Crude oil inventory priced at posted market prices at October 31, 1936, plus transportation costs. Refined products at refinery priced at cost based on posted market prices of crude oil at October 31, 1936, or at market prices for such refined products, whichever is lower. Refined products at distributing stations, if purchased from others, have been priced at cost; if shipped from our refinery at wholesale market prices at date of shipment, plus transportation and other costs. Sup-

**Liabilities:**

Funded Debt of Subsidiary Companies Outstandin
Home Oil Company Debenture Bonds Assumed.
Deep Rock Oil Company of Wisconsin:
Profit Participating Certificates.....
Less Excess of Certificate Liability Over Ass
Available .....

Southern Illinois Service Stations Company:
Certificates of Indebtedness.....
Less Excess of Certificate Liability Over Ass
Available .....

Minority Interest—Deep Rock Oil Corporation of T
Preferred and Common Stock.....
Less Carried Value of Stocks Over Assets Avail

Accounts Payable and Property and Miscellaneous
Prior to Receivership.....
Subsequent to Receivership.....

Other Reserves:
Compensation Insurance.....
Wisconsin Unemployment Benefit.....

Balance Available for (A) Convertible Gold Notes
Electric Company, Including Interest on bo
Any; (C) Acquisition of the Deep Rock Oil an
ferred and Common Stocks; (E) Legal and Oth
proved by the Court; (F) Rental Which May B
Rock Oil and Refining Company for the Period of
Trustee; (G) Contingent Liabilities, the More D
after Set Forth.....

Total.....

Contingent Li

Collector of Internal Revenue:
Income taxes—1924-1928..... Cl
Income taxes—1928-1930..... Cl
Manufacturers' excise tax:
June 21, 1932, to July 31, 1934..... Se
Aug. 1, 1934, to Dec. 31, 1935..... Ad
1
1
8
June 1, 1933, to January 30, 1934..... Set
7

| | | |
|---|---|---|
| Inventories | | |
| Escrow Deposits | 257,500.00 | |
| Other Special Funds | 10,377.67 | 267,877.67 |
| Federal Income Tax Refunds Receivable | | 76,484.26 |
| Advances to Agents | 22,377.27 | |
| Prepaid Accounts and Deferred Charges | 72,737.14 | |
| Miscellaneous Deposits | 3,708.00 | 98,822.41 |
| Total | | $18,203,042.93 |

The "Property Account" is stated at appraised value as of September 1, 1936.

The securities included in the "Securities Owned Account" are at values considered representative of their worth.

All other assets and liabilities are stated at amounts as reflected by the books of the Trustee and the books of the subsidiary companies after giving effect to certain consolidations and minor adjustments, which amounts are thought to be approximately correct.

Crude oil inventory priced at posted market prices at October 31, 1936, plus transportation costs. Refined products at refinery priced at cost based on posted market prices of crude oil at October 31, 1936, or at market prices for such refined products, whichever is lower. Refined products at distributing stations, if purchased from others, have been priced at cost; if shipped from our refinery, at wholesale market prices at date of shipment, plus transportation and other costs. Supplies at the lower of cost or determined values.

ecember 8, 1936.

Note: Figures in italic appear in red in original.

| | |
|---|---|
| Minority Interest—Deep Rock Oil Corporation of | |
| Preferred and Common Stock | |
| Less Carried Value of Stocks Over Assets Avail | |
| Accounts Payable and Property and Miscellaneou | |
| Prior to Receivership | |
| Subsequent to Receivership | |
| Other Reserves: | |
| Compensation Insurance | |
| Wisconsin Unemployment Benefit | |
| Balance Available for (A) Convertible Gold Note | |
| Electric Company, Including Interest on bo | |
| Any; (C) Acquisition of the Deep Rock Oil a | |
| ferred and Common Stocks; (E) Legal and Oth | |
| proved by the Court; (F) Rental Which May | |
| Rock Oil and Refining Company for the Period | |
| Trustee; (G) Contingent Liabilities, the More | |
| after Set Forth | |
| Total | |
| | Contingent L |
| Collector of Internal Revenue: | |
| Income taxes—1924-1928 | |
| Income taxes—1928-1930 | |
| Manufacturers' excise tax: | |
| June 21, 1932, to July 31, 1934 | S |
| Aug. 1, 1934, to Dec. 31, 1935 | A |
| June 1, 1933, to January 30, 1934 | S |
| Oklahoma Tax Commission: | |
| Income tax: | |
| Deep Rock Oil and Refining Company—1931 | |
| Deep Rock Oil and Refining Company—1932 | |
| Trustee—1934 | |
| To persons other than the Federal Government | F |

H. M. Byllesby and Company

npanies,

| | | | |
|---|---|---|---|
| ıies Outstanding in Hands of the Public: | | | |
| onds Assumed | | $ 3,210.36 | |
| ınsin: | | | |
| s | $ 12,649.18 | | |
| ility Over Assets | | | |
| | 9,829.06 | 2,820.12 | |
| ıs Company: | | | |
| | 35,446.42 | | |
| ility Over Assets | | | |
| | 28,352.79 | 7,093.63 | $ 13,124.11 |
| 'orporation of Nebraska: | | | |
| | | 206,900.00 | |
| r Assets Available | | 173,247.93 | 33,652.07 |
| l Miscellaneous Taxes Accrued: | | | |
| | | 70,609.74 | |
| | | 1,177,965.91 | 1,248,575.65 |
| | | 53,288.76 | |
| t | | 7,053.97 | 60,342.73 |
| ıble Gold Notes and Account of Standard Gas and nterest on both; (B) Undisclosed Liabilities, if ep Rock Oil and Refining Company; (D) Pre- Legal and Other Expenses That May Be Ap- Which May Be Allowed by the Court to Deep or the Period of Operation by the Receivers and ies, the More Important of Which are Herein- | | | 16,847,348.37 |
| | | | $18,203,042.93 |

Contingent Liabilities.

| | |
|---|---|
| Claim as filed July 18, 1933 | $ 1,686,877.92 |
| Clair as filed June 15, 1934 | 1,102,963.15 |
| Settled in full December 3, 1936 | 12,880.25 |
| Advised by Deputy Commissioner of Internal Revenue November 27, 1936, that assessment will be made at an early date. Interest to accrue | 80,969.31 |

| | | |
|---|---|---|
| orporation of Nebraska: | | |
| ..... | 206,900.00 | |
| r Assets Available ..... | 173,247.93 | 33,652.07 |
| l Miscellaneous Taxes Accrued: | | |
| ..... | 70,609.74 | |
| ..... | 1,177,965.91 | 1,248,575.65 |
| ..... | 53,288.76 | |
| t..... | 7,053.97 | 60,342.73 |
| ible Gold Notes and Account of Standard Gas and nterest on both; (B) Undisclosed Liabilities, if ep Rock Oil and Refining Company; (D) Pre- Legal and Other Expenses That May Be Ap- Which May Be Allowed by the Court to Deep or the Period of Operation by the Receivers and ies, the More Important of Which are Herein- ..... | | 16,847,348.37 |
| ..... | | $18,203,042.93 |

Contingent Liabilities.

| | | |
|---|---|---|
| ..... | Claim as filed July 18, 1933..... | $ 1,686,877.92 |
| ..... | Claim as filed June 15, 1934..... | 1,102,963.15 |
| ..... | Settled in full December 3, 1936.... | 12,880.25 |
| ..... | Advised by Deputy Commissioner of Internal Revenue November 27, 1936, that assessment will be made at an early date. Interest to accrue | 80,969.31 |
| ..... | Set up by examiners. Assessment not received as yet..... | 13,261.20 |
| any—1931.. | Claim as filed December 18, 1934.... | 24,365.47 |
| any—1932.. | Claim as filed December 18, 1934.... | 22,347.78 |
| ..... | As assessed May 15, 1936..... | 25,204.15 |
| vernment... | For income taxes which may become payable as result of interest received in connection with refund of Federal income taxes paid in 1920. Funds to provide for such contingent liability have been deposited in escrow in the sum of.... | 257,500.00 |
| ..... | In an undetermined amount. | |

Order No. 142.

On the 22nd day of December, 1936, this matter coming on to be heard upon the motion of Mr. William F. Semple, attorney for the Debtor, and on the motion of Messrs. Campbell & Biddison, and Messrs. Cutting, Moore & Sidley, attorneys for the Reorganization Committee, and upon the original petition of the Debtor filed herein on June 19, 1934, and upon notice by mail and publication to the creditors and stockholders of the Debtors, in conformity with the requirements of Section 77b of the Bankruptcy Act, as amended, and with the order of this court number 137 dated November 9, 1936, and this cause having been specially set for hearing on the 12th day of December, 1936 by said order number 137 dated November 9, 1936, and the court having considered all the evidence, written and oral, introduced herein, and all the records herein, and in the receivership and bankruptcy proceedings involving the Deep Rock Oil Corporation in this court, and the court having heard and considered all objections made to the classification of creditors and stockholders of the Debtor herein provided and the court having heard and considered all objections to, and suggested changes and modifications of, the Amended Plan of Reorganization filed herein November 9, 1936, and having heard arguments of counsel and being fully advised in the premises, the court doth, therefore, Find, Consider, Order, Adjudge and Decree as follows:

Article I.

Jurisdiction.

(a) *Jurisdictional facts as to Debtor.*

Deep Rock Oil Corporation, the Debtor above-named (hereinafter for convenience referred to as "the Debtor") was at the time of the filing herein on June 19, 1934, of its original petition for reorganization under Section 77a and 77b of the Bankruptcy Act of the United States, as amended, (herein for convenience referred to as "Section 77b") and at all times since has been and now is, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware and a corporation which could become a bankrupt under Section 4 of said Bankruptcy Act. The Debtor is not, and at none of the times aforesaid has been, a municipal, railroad, insurance or banking corporation, or a building and loan association; and is not, and at none of the times aforesaid has

been engaged primarily in the tillage of the soil. The Debtor on June 19, 1934, and at all of the times aforesaid, has owed debts in excess of $1,000. During the six months preceding the filing of said petition the Debtor had its principal place of business and substantial assets in the City of Tulsa, County of Tulsa, State of Oklahoma, within the territorial jurisdiction of this court.

(b) *Inability to meet debts.*

On June 19, 1934, the Debtor was, and at all times since has been and now is unable to meet its debts as they mature.

(c) *Nature of business of Debtor.*

The nature of the business of the Debtor is the producing, refining and selling of petroleum products and their derivatives; the Debtor is not a utility or utility corporation subject to the jurisdiction of any regulatory commission or commissions or other regulatory authority or authorities created by the laws of any state of the United States of America in which the properties of the Debtor are located and operated, within the meaning of subdivision (e), clause 2, or of subdivision (f), clause 7 of Section 77b.

Article II.

Institution of Proceedings and Appointment of Trustee.

Receivers were appointed by this court on March 1, 1933, for the Debtor on a bill in equity. Thereafter a petition in bankruptcy entitled, "In the Matter of Deep Rock Oil Corporation, Alleged Bankrupt," was filed. On June 7, 1934, the Debtor filed an answer to the said bankruptcy proceedings and also filed its original petition under Section 77b. Thereafter the court found that both said petition and said answer complied with Section 77b and were filed in good faith, and both said petition and said answer were approved as properly filed under Section 77b. The court, by order entered June 19, 1934, appointed H. N. Greis as temporary trustee of the business of the Debtor, and set a hearing for July 7, 1934, for the determination of the question of the appointment of a permanent trustee. Notice of the time and place of said hearing was duly given by the Debtor as directed by said order entered June 19, 1934, by mailing a copy of the notice of the hearing to all known creditors and stockholders of the Debtor, and by publication of such notice once a week for two successive

weeks in the Chicago Tribune, a newspaper of general circulation, published at Chicago, Illinois. At the continuance of said hearing and on July 9, 1934, H. N. Greis was appointed permanent trustee of the Debtor. At said hearing all creditors and stockholders of the Debtor had full opportunity to be heard on the question whether said H. N. Greis should be appointed permanent trustee.

## Article III.

## Reorganization Committee.

By order of the court entered August 9, 1934, John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson were permitted to intervene as parties in the proceeding as a Reorganization Committee (hereinafter referred to as "the Committee"), by and under the terms and provisions of a certain Deposit Agreement dated as of August 9, 1934. The terms and provisions of the Deposit Agreement dated as of August 9, 1934, were approved and said Deposit Agreement was found to be fair by order entered herein on August 20, 1934, at a hearing, notice of which was duly given to all creditors and security holders of the Debtor. At the said hearing of August 20, 1934, all creditors and security holders of the Debtor were given an opportunity to be heard on the question as to whether the terms and provisions of said Deposit Agreement were fair and should be approved. Thereafter an order was entered on November 9, 1936 authorizing certain modifications of the terms and provisions of said Deposit Agreement, to conform to the Plan, as amended by the Debtor under date of November 9, 1936, and finding that the terms and provisions of the Deposit Agreement, as so amended, were fair and should be approved. By action of the Committee confirmed and approved by order of court entered November 28, 1936, the termination date of the Deposit Agreement was extended to December 1, 1937.

## Article IV.

## Claims and Interests of Creditors and Stockholders.

An order was entered herein on November 19, 1934, determining the time and manner in which claims of creditors and interests of stockholders might be filed or evidenced. The court determined as a reasonable time within which the claims of creditors and interests of stockholders might be filed or

evidenced the period expiring January 20, 1935. Unless the claim or interest was so filed or evidenced within said period, said order provided that the claimant or stockholder should not participate in any plan of reorganization of the Debtor, except upon order for cause shown. The time for filing and evidencing claims and interests has expired.

Said order entered November 19, 1934, also provided that the books and records of the Debtor should be *prima facie* evidence of the holders and owners of stock of the Debtor, and that no further evidence of interest need be filed on behalf of stockholders of record in the absence of adverse claims to said stock; that all interests of stockholders of the Debtor not reflected by its books and records, and all interests of parties claiming any right or title to, or lien upon, the stock of the Debtor not reflected by its books and records, might be evidenced by filing with the Trustee a verified proof of interest, having attached thereto the original of the stock certificate, unless lost or destroyed, and/or contract, if any, evidencing claimant's interest therein.

Said order entered November 19, 1934, also provided the place for filing claims and evidences of interests; the manner in which claims of creditors should be evidenced; provisions as to claims of creditors previously filed with the equity receivers of the Debtor; the manner in which interests of stockholders should be evidenced; proofs of claim and evidences of interests filed by committees; proof of claim by the trustee under the indenture pursuant to which the Convertible Gold Notes of the Debtor were issued; the objections to and allowances of claims or evidences of interest; reference to the Special Master; and assignment of claims. The claim of Standard Gas and Electric Company was excepted from the general provisions regarding claims.

Thereafter the trustee of the Debtor, H. N. Greis, filed with the court a report of claims filed with him pursuant to said order entered November 19, 1934.

Pursuant to the order entered November 19, 1934, the Committee filed a proof of claim with respect to the Convertible Gold Notes of the Debtor deposited with it. Said proof of claim stated that Convertible Gold Notes in the principal amount of $7,452,000 together with accrued interest from March 1, 1933, at the rate of 6 per cent per annum on $1,361,500 of said amount and at the rate of 7 per cent per annum

on $6,090,500 of said amount, had been deposited with the Committee, and that the claim was filed on behalf of all depositors.

The Committee, pursuant to the order entered November 19, 1934, also filed a proof of interest with respect to the Preferred Stock of the Debtor deposited with it. This proof of interest contained the recital that 27,030 shares of said Preferred Stock had been deposited with the Committee, and the proof of interest was therefore filed on behalf of all depositors.

Pursuant to the order entered November 19, 1934, The First National Bank of Chicago, as successor trustee under the indenture dated March 1, 1928, securing the Convertible Gold Notes of the Debtor, filed a proof of claim for all owners and holders of said notes who otherwise did not file their claims.

The claims and interests of all holders of Convertible Gold Notes and shares of Preferred Stock established and filed herein, as aforesaid, are hereby allowed.

By order of the court entered March 9, 1935, some sixty-five claims, set forth in said order, were allowed and the respective claimants decreed to be unsecured creditors of the Debtor in the amounts set opposite their names in said order. The details of four exceptional claims were set forth in paragraph 2 of said order entered March 9, 1935, and provision for the payment of these claims was made pursuant to the respective awards of the State Industrial Commission. In paragraph 3 of said order entered March 9, 1935, claims numbered 70 to 90, both inclusive, were listed, as to which exceptions in writing had been filed. Said order contained the recital that the trustee of the Debtor had recommended that the claims be disallowed, but specified the procedure by which the respective claimants might further prove up their respective claims. All of said claims listed in paragraph 3 of said order entered March 9, 1935, except those heretofore allowed by order of court, be and they are hereby disallowed and denied.

## Article V.

### Classification of Creditors and Stockholders.

A determination be and it is hereby made for the purposes of a plan of reorganization herein and the acceptance thereof, of the division of the creditors and stockholders of the Debtor

into classes according to the nature of their respective claims and interests. All creditors and stockholders of the Debtor have had full opportunity to be heard with respect to said classification. The court hereby orders such determination and classification, and by virtue hereof for the purpose of a plan of reorganization herein, and the acceptance thereof, the division of creditors and stockholders of the Debtor into classes according to the nature of their respective claims and interests, is as follows:

*Class 1.* All persons, firms and corporations heretofore or hereafter entitled to reasonable administration expense and allowances approved by the court, such as all costs and expenses incident to the reorganization and the consummation of a plan of reorganization, including without limiting the generality of the foregoing, all persons entitled to receive fees, heretofore or hereafter approved and allowed by the court, such as the Receivers, the Trustee in Bankruptcy, the members of the Reorganization Committee, interveners herein, and counsel for the Trustee, the Debtor, the Reorganization Committee and other parties to this proceeding.

*Class 2.* All persons, firms and corporations who would be entitled to priority under Section 64b of the Bankruptcy Act, or pursuant to or by virtue of any other law of any State or of the United States, including, without limiting the generality of the foregoing, creditors, such as workmen, clerks, servants and salesmen, if any, holding unpaid wage claims not exceeding $600 each, earned within the three months preceding the filing of the 77b petition herein, tax obligations, et cetera.

*Class 3.* All persons, firms and corporations holding allowed unsecured claims against the Debtor of every kind and character whatsoever, other than said creditors included in any other class specified in this Order, including the holders of 6% Convertible Gold Notes, dated March 1, 1928, of Deep Rock Oil Corporation and 7% Convertible Gold Notes, due March 1, 1937, of said Debtor and/or interest coupons pertaining thereto issued under Trust Indenture of Deep Rock Oil Corporation (formerly Shaffer Oil & Refining Company), dated March 1, 1928, to Union Trust Company, as Trustee, under which said Trust Indenture The First National Bank of Chicago is now Trustee, and including the claim of Standard Gas & Electric Company as conditionally allowed in this

proceeding by Order entered under date of December 22, 1936, in the amount of $1,500,000.

*Class 4.* The claim of Standard Gas & Electric Company subordinated to the claims of all other creditors, as conditionally allowed by Order entered herein under date of December 22, 1936 in the amount, as of December 15, 1936, of $3,621,866.68.

*Class 5.* Holders of $7.00 Cumulative Convertible Preferred Stock of Deep Rock Oil Corporation, Debtor.

*Class 6.* Holders of Common Stock of Deep Rock Oil Corporation, Debtor.

## Article VI.

### Proposal of Plan of Reorganization and Making of Modifications Thereto.

By leave of court first obtained, the Debtor filed herein a Plan of Reorganization on August 9, 1934. Said Plan of Reorganization, at a hearing duly noticed in conformity with the requirements of Section 77b and with the order of this court dated August 9, 1934, was duly proposed herein by the Debtor on August 20, 1934 as found and determined by the order entered herein on August 20, 1934. At said hearing, at which said Plan of Reorganization was duly proposed, the Debtor and all creditors and stockholders of the Debtor had full opportunity to be heard, and said Plan of Reorganization was duly proposed in accordance with the provisions of Subdivision (b) of Section 77b and the Plan of Reorganization complied with the provisions of Section 77b.

On November 9, 1936, by leave of court first obtained, the Debtor filed an Amended Plan of Reorganization. Said Amended Plan of Reorganization, at a hearing duly noticed in conformity with the requirements of Section 77b and with the order of this court dated November 9, 1936, was duly proposed by the Debtor on December 12, 1936, and the Amended Plan of Reorganization complies with the provisions of Section 77b.

The court, by its order entered November 9, 1936, found that it was fair, reasonable and proper that all creditors and stockholders of the Debtor who had previously assented to and accepted the original Plan of Reorganization filed by the Debtor on August 9, 1934, and duly proposed by the Debtor

on August 20, 1934, be given an opportunity to reconsider the Amended Plan of Reorganization in the light of subsequent developments, and that all creditors and stockholders of the Debtor who had accepted and assented to the original Plan of Reorganization of the Debtor should be given an opportunity to withdraw their acceptances of the original Plan of Reorganization on or before December 5, 1936. The creditors and stockholders of the Debtor were given full opportunity to withdraw their respective acceptances, and due notice was given to said creditors and stockholders of the Debtor of said right to withdraw their respective acceptances. Pursuant to said order entered November 9, 1936, be and it is hereby ordered that all creditors and stockholders of the Debtor who did not on or before December 5, 1936, withdraw their respective acceptances, be deemed to have assented to and accepted the Amended Plan of Reorganization of the Debtor and to have approved the proposed compromise and settlement of the claim of Standard Gas and Electric Company dated November 7, 1936, the terms of which proposed settlement, pursuant to the order of court entered November 9, 1936, accompanied said Amended Plan when distributed to the creditors and security holders of the Debtor.

Article VII.

Creditors Whose Claims Are Not Affected by the Plan.

The said Amended Plan does not adversely affect the rights of any of the Debtor's general unsecured creditors, other than Standard Gas and Electric Company and the holders of Convertible Gold Notes, whose claims have been duly allowed by the court. The New Company, which is provided for by the said Amended Plan and this order, will assume the indebtedness of all general unsecured creditors whose claims have been duly allowed by the court. It is hereby ordered that all of the Debtor's general unsecured creditors, other than Standard Gas and Electric Company and the holders of Convertible Gold Notes, whose claims have been duly allowed by the court be and they are assumed by the New Company, and the Debtor or the New Company shall pay such claims in cash in the ordinary course of business.

It is ordered that the Debtor, or said New Company, pay in full all tax liabilities which are duly determined to be owing by the Debtor to the United States of America, regardless of

whether claims on such tax liabilities have been filed herein by the United States of America, provided said tax liabilities are assessed and determined in accordance with the statutes of the United States of America. It is further ordered that such tax liabilities shall have the same priority and preference over claims of other claimants of the new reorganized corporation contemplated by the Plan, with respect to the assets thereof, as would lie against the assets of the Debtor had these proceedings not intervened, and the United States of America and the Debtor and said New Company are hereby granted the same rights and remedies that they would have had, had not these proceedings intervened. All statutes of limitation upon the assessment and the collection of such claims shall be suspended during the time these proceedings are pending, and this court shall retain jurisdiction for the purpose of enforcing these federal tax provisions.

## Article VIII.

### Acceptance of the Plan by Creditors and Stockholders.

At a hearing held on August 20, 1934, pursuant to notice duly given in compliance with the requirements of Section 77b and with the order of this court entered August 9, 1934, an order was entered herein finding to be fair and approving the terms and conditions of the Deposit Agreement (including the forms of Certificates of Deposit attached thereto) executed by the Committee, described above in Article III. Thereafter an order was entered on November 9, 1936, pursuant to the amendment of the Plan, authorizing certain modifications of the terms and provisions of said Deposit Agreement to conform to the Plan, as amended, and finding and decreeing that the terms and provisions of the Deposit Agreement, as so amended, were fair and approved. By said order entered August 20, 1934, the court ordered and directed that the holders of securities of and claims against the Debtor might evidence their consent to and acceptance of the Plan by becoming depositors with the Committee under the terms and conditions of said Deposit Agreement.

It Is Hereby Found that there is no equity for the common stockholders of the Debtor in the property and assets of the Debtor dealt with by the Amended Plan and that the common stock of the Debtor has no value. The properties of Debtor of every kind and character whatsoever be and they are hereby

found and declared to be of a value not in excess of $17,000,000.00.

Within the meaning of subdivision (e) of Section 77b, the Amended Plan has been duly accepted in writing, and such acceptances have been duly approved and presented in these proceedings, by or on behalf of creditors of the Debtor holding more than two-thirds in amount of the claims of said class whose claims have been allowed and are affected by the Amended Plan and by stockholders holding more than a majority of the stock of every class having an interest and a right to participate in any plan of reorganization; more particularly, the Amended Plan has been accepted in writing and such acceptance has been filed in this cause by or on behalf of at least the following percentages, by classes, of the total of the claims and interests included in classes 3, 4 and 5 defined in Article V hereof, to-wit:

| | Total Principal Amount Outstanding | Total Amount Covered by Acceptances | Percentage Covered by Acceptances |
|---|---|---|---|
| Class 3..... | $11,500,000.00 | $ 9,314,000.00 | 81% |
| Class 4..... | 3,621,866.68 | 3,621,866.68 | 100% |
| Class 5..... | 50,000 shares | 30,943 shares | 62% |

By reason of the number of securities of the Debtor outstanding and the extent of public dealing therein, the preparation of a statement showing what, if any, claims or shares of stock of the Debtor have been purchased or transferred by those accepting the Plan after the commencement or in contemplation of the proceedings herein, would be impractical; it is therefore ordered that neither the individual creditors and stockholders accepting the Amended Plan as modified, nor the Committee nor the depositaries filing said acceptances with the court, need file any such statement or statements.

No contracts of the Debtor, affected by the Amended Plan are executory in whole or in part, and the New Company is authorized and directed to take over and assume all unexpired leases of the Debtor.

## Article IX.

### Hearings for Consideration of Confirmation of Plan.

By order of this court entered November 9, 1936, it was directed that a hearing be held before this court on December 12, 1936, at which hearing, or any adjournment thereof, the court

might consider and determine all objections made to and suggested modifications of the Amended Plan and the question whether the Amended Plan should be confirmed, and for the other purposes in said order specified. Notice of said hearing was duly given to the creditors and stockholders of the Debtor by publication and mailing as directed in said order entered November 9, 1936, and in conformity with the provisions of Section 77b. Said hearing has been duly held, and at said hearing and adjournments thereof the Debtor and all creditors and stockholders of the Debtor have had full opportunity to be heard upon the proposed confirmation of the Amended Plan and upon all other questions specified in the notice of said hearing, and this court has heard and considered all objections to and suggested modifications of the Amended Plan, including the objections filed and presented by the Independent Committee for the protection of the rights of Preferred Stockholders.

## Article X.

### Modification of Plan Made at Confirmation Hearing.

The following modifications to the Amended Plan of Reorganization were made at the confirmation hearing, with the approval of the court:

(a) To the first sentence of the second paragraph under 7 (a), Description of New Securities, should be added part of a sentence. The sentence, as changed, will read as follows (the matter to be inserted being in italics):

"Said interest shall be cumulative so that to the extent the interest payments on March 15th and September 15th of each year are not made or are made at a rate less than 6% per annum, the deficiency, subject to the conditions hereinafter set forth, shall be cumulative and accrue and be thereafter payable out of future Available Net Income of the New Company, and any such deficiency shall be paid in full prior to the declaration and payment of any dividends on any class of stock of the New Company, *provided, however, that this restriction shall not prevent the payment of dividends in capital stock of the New Company.*"

(b) The sentence comprising paragraph "First" which is the fifth paragraph of 7 (a), Description of New Securities, should be changed. The sentence, as changed, will read as follows (the new matter to be inserted is in italics):

"Net income of the New Company shall be determined in accordance with accounting practice in the oil industry in so far as such practice is not inconsistent with the methods prescribed herein (on a consolidated basis after eliminating interdepartmental and inter-company transactions, except such profits as might remain in inventory and which are not eliminated in accordance with the provisions set forth in the annexed Schedule B with respect to valuation of inventory) for each period of six months ending June 30th (herein referred to as the 'June Income Period') and for each period of twelve months ending December 31st (herein referred to as the 'December Income Period'), after providing for all operating, selling, administrative and other expenses incurred or accrued during such Income Period including (i) depreciation of plants and equipment, exclusive of production equipment; (ii) depletion of productive leaseholds and intangible costs and depreciation of physical equipment on productive leases; (iii) amortization of non-productive leaseholds; (iv) amortization of service stations leasehold improvements; (v) the entire cost of 'dry holes' drilled, when determined dry; (vi) all oil and gas lease rentals; (vii) the expense of maintaining wells, equipment and all other physical property; (viii) accrual for bad debts losses; (ix) all local, state and Federal taxes, excluding Federal *and State taxes, if any, applicable to such income as is herein specifically excluded from 'available net income';* (x) abandonments and (xi) interest on all interest bearing indebtedness except the Income Debentures and indebtedness, if any, subordinated thereto."

(c) The second sentence of the first paragraph under "Sixth," which is the tenth paragraph of 7 (a), Description of New Securities, should be changed. The sentence, as changed, will read as follows (the new matter to be inserted is in italics):

"Said account shall contain charges or credits (of a character corresponding to those above set forth for the determination of Net Income) appearing in a period subsequent to the period to which they actually apply and made necessary in order to restate accurately the accounts for such earlier period, *excepting that this provision shall not be construed to include the usual operating charges and income credits which, due to delayed billings, are not ascertainable and are, in accordance with accounting practice, included as expenses or income of subsequent periods.*"

(d) To the sentence which comprises the sixteenth paragraph of 7 (a), Description of New Securities, should be added part of a sentence. The sentence, as changed, reads as follows (the matter to be inserted being in italics):

"The Indenture will provide that no dividends may be paid by the New Company until the outstanding principal amount of Income Debentures has been reduced to $5,000,000 and that no shares of the New Company's common stock may be purchased by it as long as any Income Debentures are outstanding, *provided, however, that this restriction shall not prevent the payment of dividends in capital stock of the New Company.*"

(e) The last sentence of the seventeenth paragraph of 7 (a), Description of New Securities, should be changed. The sentence as changed will read as follows (new matter to be inserted is in italics):

"Until the principal amount of outstanding Income Debentures has been reduced to $5,000,000 there shall be paid into the Sinking Fund on or before March 15th of each year an amount equal to *all* the Available Net Income for the preceding December Income Period remaining after the payment of all interest payable on March 15th upon the Income Debentures out of such Available Net Income and after deducting proper provisions for Federal income taxes, *not already deducted in computing Available Net Income,* during the first taxable year of the New Company and upon the expiration of said first taxable year after deducting Federal income taxes paid *and not already deducted in computing Available Net Income.*"

(f) A comma should be added in the second sentence of the eighteenth paragraph of 7 (a), Description of New Securities, after the words "Sinking Fund," the first time the words appear. The sentence with this comma added will read as follows:

"Whenever the New Company is required by the Plan or the indenture to make any payment into the Sinking Fund, in lieu of depositing cash with the Trustee, the New Company may surrender Income Debentures for cancellation and receive a Sinking Fund credit in an amount equal to the purchase price paid by the New Company for the acquisition of the Income Debentures so surrendered."

(g) The sentence which comprises the twentieth paragraph

of 7 (a), Description of New Securities, should be changed. The sentence as changed reads as follows (the matter which is inserted being in italics):

"Earned surplus for the purpose of the preceding paragraph shall be considered to represent the net income for the entire period (taken as a whole) beginning with the date of the Income Debentures *to and including the calendar years in which dividends are declared, to the extent that prior to the date of dividends declaration net income is ascertainable for such years,* determined as hereinbefore provided but after also deducting (i) all Federal Income taxes paid and accrued, *not already deducted in computing Available Net Income,* (ii) all interest paid, accumulated and unpaid, and accrued on the Income Debentures and all interest paid or accrued on indebtedness, if any, subordinated to the Income Debentures, (iii) all losses which may have resulted from the purchase or sale of Income Debentures, the sale of advances to or investments in subsidiary companies and the sale of fixed assets, (iv) all dividends paid or declared prior to the declaration of the dividend in question, (v) all amounts paid or payable to the Sinking Fund (except such amounts as may have been paid or then be payable to the Sinking Fund as a result of the sale of fixed assets or the sale of advances to and investments in subsidiaries), and (vi) the amount to be appropriated to such Sinking Fund upon payment of the dividend in question. Although the losses which may result from (a) the purchase or sale of Income Debentures, (b) the sale of advances to or investments in subsidiary companies and (c) the sale of fixed assets are, as above provided, to be deducted from net income in determining the amount of 'earned surplus' it is not intended that any profits resulting from such purchases and sales shall be added to the net income in determining the amount of 'earned surplus'; *provided, however, that any profits resulting from such purchases and sales shall be added to the net income in determining the amount of 'earned surplus' for the purpose of declaring dividends payable in capital stock of the New Company.*"

(h) The sentence which comprises the twenty-first paragraph of 7 (a), Description of New Securities, should be changed. The sentence as changed reads as follows (the matter to be inserted is in italics):

"The Indenture shall also contain further provisions and re-

strictions, designed to protect the Income Debentures to be consistent with the Plan and approved by the court, including provisions as follows: (i) a provision prohibiting the payment of so-called supervision or management fees to affiliated companies; (ii) a provision requiring that an amount equal to the *net* cash proceeds received by the New Company or any subsidiary from each sale of a fixed asset (other than fixed assets disposed of in transactions which normally occur in the routine operation of the business) and that the *net* cash proceeds received by the New Company from the sale of advances to or investments in subsidiary companies (to be defined), *after deducting from such net cash proceeds any Federal or State taxes directly applicable to any profits reflected therein*, be paid into the Sinking Fund except to the extent that such *net* cash proceeds are used within eighteen months after their receipt by the New Company or a subsididary for construction or for the acquisition of additional fixed assets or to reimburse the New Company or a subsidiary for moneys theretofore expended by it for construction or for the acquisition of additional fixed assets, or, if such *net cash* proceeds are derived from the sale of a fixed asset of a subsidiary, they may be used to retire or pay the principal of any indebtedness of such subsidiary; provided, however, that this provision shall not apply to any sale where the *net* cash proceeds received by the New Company or a subsidiary are less than $100,000, and provided further that in no event shall the New Company be required to pay to the Sinking Fund amounts in excess of the principal amount of Income Debentures then outstanding; (iii) a provision preventing the New Company from consolidating with or merging into any other corporation or selling or transferring all or substantially all of its assets to any other person, firm or corporation, unless prior thereto all of the Income Debentures then outstanding shall be directly secured by a closed mortgage upon the fixed assets of the New Company so to be owned by such consolidated or merged company or so to be transferred or conveyed; (iv) a provision designed to prevent the New Company from paying any salary or compensation to any officer, director, or employee of any affiliated company, except only in proper amounts for services actually rendered; (v) a provision designed to prevent the New Company, by lease or otherwise, from acquiring property from or disposing of property to, an affiliated company, except upon the terms and conditions deemed to be fair by the respective Boards of Directors, after an appraisal of the

property in question has been made by an independent engineer, or other expert, approved by the Trustee under the indenture; provided, however, that this provision shall not apply to purchases or sales of property involving less than $25,000 or to leases involving an annual rental of less than $12,000; and (vi) provisions fixing an accounting system for computing depreciation, depletion and other charges and establishing a 'depreciation base' as set forth in Schedules A and B annexed hereto."

(i) The paragraph which comprises 8 (a) should be changed. The figure appearing in the last line of the second paragraph should be changed from "$30 in cash" to "$60 in cash." The sentence as changed will read as follows:

"(a) *Holders of Convertible Gold Notes* of the Present Company will be entitled to receive, for each $500 principal amount of Convertible Gold Notes:

$500 principal amount of Income Debentures, 2 shares of New Common Stock, and $60 in cash."

(j) To paragraph 9 under the heading "Confirmation of Plan" should be added the following sentence:

"If a plan of reorganization is not confirmed by the court and made effective on or before January 1, 1937, then and in that event only, the holders of Convertible Gold Notes of the Present Company will be entitled to receive in addition to the $60 in cash as herein provided, for each $500 Note, an amount equal to interest at the rate of 6 per cent per annum of the principal amount of Convertible Gold Notes held by them from January 1, 1937, to the date of the New Income Debentures."

(k) An additional provision should be included under paragraph two, Schedule "A," attached to the Amended Plan of Reorganization, as follows:

"In the event the Treasury Department of the United States Government shall stipulate and require methods of computing depreciation of physical equipment on productive leases for the purposes of computing the federal income tax of the New Company, which methods differ from those hereinabove specified, then and in that event, the officers of the New Company may, with the approval of independent certified public accountants, accept and apply such Treasury Department methods in the

computation of depreciation of such physical equipment on productive leases in lieu of the methods hereinabove stipulated."

(l) An additional provision should be included that the court reserves the right to change the period of time during which the court retains jurisdiction of the affairs of the New Company.

The court finds that it is fair, reasonable and proper that all creditors and stockholders of the Debtor who have previously assented to and accepted the Amended Plan of Reorganization of the Debtor be given an opportunity to reconsider the Amended Plan of Reorganization in the light of the modifications listed in Article X hereof, and that all creditors and stockholders of the Debtor who have heretofore accepted and assented to the Amended Plan of Reorganization by the deposit of their securities with the Committee, or their Depositaries, shall be given an opportunity to withdraw, without expense, their acceptances of the Amended Plan of Reorganization and the securities so deposited, if they do not wish to accept the Amended Plan of Reorganization as thus modified.

It Is Therefore Ordered, Adjudged and Decreed that all creditors and stockholders of the Debtor who have heretofore accepted the Amended Plan of Reorganization may file with the Depositaries of the Committee, The First National Bank of Chicago, 38 South Dearborn Street, Chicago, Illinois, and The Chase National Bank of the City of New York, 11 Broad Street, New York, N. Y., on or before January 11, 1937, a written request to withdraw their respective acceptances, and upon the filing of such written request and surrender of such certificates of deposit, properly endorsed, on or before January 11, 1937, as aforesaid, shall be deemed not to have assented to or accepted the Amended Plan of Reorganization, as thus modified.

It is further ordered that all creditors and stockholders who do not withdraw their securities from said Depositaries of the Committee on or before January 11, 1937, will be deemed to have accepted and assented to said Amended Plan of Reorganization, as further amended and changed by the modification listed herein in Article X hereof.

The Committee be and it is hereby specifically authorized and directed as soon as reasonably possible, and within two days of the date of this order in any event, to mail to each of the credi-

tors and stockholders of the Debtor who have accepted the Amended Plan of Reorganization, a copy of said modifications to the Amended Plan of Reorganization, together with notice to said creditors and stockholders who have heretofore accepted the Amended Plan of Reorganization that they may, if they so desire, on or before January 11, 1937, withdraw, without expense, their acceptances of the Amended Plan of Reorganization and their deposited securities by written request to do so, accompanied by surrender of their respective certificates of deposit, properly endorsed, filed with the said Depositaries of the Committee, and that the creditors and stockholders who were given the right to withdraw and do not so withdraw on or before January 11, 1937, will be deemed to have accepted and assented to the said Amended Plan of Reorganization, as further amended and changed by the modifications listed in Article X of this order. The form of the notice which the Committee shall mail is attached to this order as Exhibit A and hereby made a part of this order. The Committee is further authorized and directed to publish in a daily newspaper of general circulation printed in the English language published in the City of Tulsa, Oklahoma, and in a similar newspaper published in the City of Chicago, Illinois, and in a similar newspaper published in the City of New York, New York, a notice in the form attached to this order as Exhibit B and made a part hereof. The affidavit of the Secretary of said Committee shall be sufficient proof of compliance with this paragraph of this order.

The affidavits of the duly authorized agents of the Depositaries of the Committee, stating the principal amount of the notes and the number of shares of preferred stock remaining on deposit subsequent to January 11, 1937, shall be filed with the clerk of this court on or before January 16, 1937. Such affidavits, unless contested by a party in interest on or before January 21, 1937, shall be deemed final proof as to the acceptance or non-acceptance of the Amended Plan, as modified by this order, by and on behalf of the creditors and stockholders of the Debtor whose acceptances are necessary.

The Amended Plan of Reorganization, as thus modified, complies with the provisions of subdivision (b) of Section 77b and the provisions of subdivision (f) and subdivision (e), clause 2, respectively, of Section 77b. The Amended Plan of Reorganization, as modified in this Article X of this Order, is sometimes hereinafter referred to as "the Plan."

## Article XI.

Fulfillment of Conditions Precedent to Confirmation.

This court is satisfied and doth further Find, Order, Adjudge and Decree:

(a) The Plan is fair and equitable and does not discriminate unfairly in favor of any class of creditors or stockholders of the Debtor and is feasible.

(b) The Plan complies with all the provisions of subdivision (b) of Section 77b.

(c) The Plan has been accepted as required by the provisions of subdivision (e), clause 1 of Section 77b.

(d) The provisions of subdivision (e), clause 2 of Section 77b are not applicable.

(e) All amounts to be paid by the Debtor or by the New Company to acquire the assets of the Debtor and assume its liabilities pursuant to the Plan, and all amounts to be paid for services rendered and for reimbursement for the actual and necessary expenses incurred and incidental to these proceedings and the reorganization of the Debtor herein, are subject to the approval of this court.

(f) The offer of the Plan and its acceptance are in good faith and have not been made or procured by any means or promises forbidden by the Bankruptcy Court.

(g) The Debtor, and the New Company which shall acquire the assets of the Debtor and assume its liabilities under and pursuant to the Plan, are authorized or will be authorized by their respective charters and by all applicable State or Federal laws, upon consummation of the Plan, to take all action necessary to carry out the Plan.

## Article XII.

Confirmation of the Plan.

All objections, whether oral or in writing, to the Plan, (being the Amended Plan filed herein by the Debtor on November 9, 1936, as modified pursuant to the provisions of Article X hereof), are hereby denied and overruled, and said Plan is hereby in all respects finally approved and confirmed, subject to the acceptance of the Plan (as modified by Article X hereof)

by the holders of two-thirds of the claims of each class of creditors affected by the Amended Plan of Reorganization, as thus modified, and by the holders of a majority of the preferred stock of the Debtor, pursuant to and in accordance with the terms of the resubmission of the Amended Plan of Reorganization, as thus modified hereby, directed by Article X hereof, and subject to the acceptance of the Amended Plan of Reorganization, as thus modified, by Standard Gas and Electric Company before February 8, 1937, pursuant to authority from the District Court of the United States for the District of Delaware, and subject to the order of this court dated December 22, 1936, approving the compromise of the claim of Standard Gas and Electric Company remaining unreversed.

## Article XIII.

### General Authority to Consummate Plan.

The Debtor, the Trustee and the Committee, and all parties hereto, are hereby authorized and directed as soon as reasonably practicable and as soon as the Amended Plan of Reorganization, as modified by Article X hereof, has been accepted by the creditors and stockholders of the Debtor affected thereby, and as soon as Standard Gas and Electric Company, pursuant to order of the District Court of the United States for the District of Delaware has accepted the Amended Plan of Reorganization, as modified, if the said order of this court dated December 22, 1936, approving the compromise of the claim of Standard Gas and Electric Company then remains unreversed and the time for taking an appeal therefrom has expired, then to put into effect and carry out the Plan, and to do any and all acts necessary or appropriate thereto, subject to the supervision and control of the court. The Debtor and the Trustee, and each of them, are hereby authorized in their discretion from time to time to pay out of any funds now or hereafter coming into its or their hands and available for such purpose, all expenses incident to a compliance with the directions hereinafter given to consummate the Plan and necessary or appropriate to consummate the Plan and the Debtor and the Trustee are further directed to report in writing to the Court the amount of each such expenditure for the approval of the court.

## Article XIV.

### Organization of New Company.

The Debtor is authorized and directed to cause to be organized a new corporation under the laws of the State of Delaware under articles of incorporation to be presented to the Court for approval, or to cause the Articles of Incorporation of any existing Delaware corporation (the stock of which is wholly owned by the Debtor) to be amended and as so amended to be presented to the Court for approval, for the purpose of acquiring all the assets, business and good will of the Debtor subject to the assumption of the obligations of the Debtor under and pursuant to the Plan and as directed by this order. The New Delaware Corporation or the existing Delaware Corporation (with Amended Articles of Incorporation) is herein sometimes for convenience referred to as the "New Company."

## Article XV.

### Transfer of Assets to New Company and Issuance of New Securities.

Be and it is hereby by this order transferred, conveyed, assigned and invested in said New Company as soon as its Articles of Incorporation are approved by this court, all of the right, title and interest of said Debtor in and to the Debtor's, and all of the right, title and interest of said Trustee, as such, in and to, property of every kind and character whether real, personal or mixed, assets of every kind and character, including among other things but without in any manner limiting the generality of the foregoing, all real estate, all personal property, all mixed property, all choses in action, all patents and patent applications, all franchises, all trademarks, all names, all causes of action at law or in equity, all claims, counterclaims and setoffs, all right to use the name of said Debtor for every purpose, all books and records, all furniture, furnishings, equipment and fixtures, all stocks, bonds, notes, debentures and evidences of indebtedness, all evidences of beneficial interest or participation in property of every kind and character, whether real, personal or mixed, all cash on hand and in banks and on deposit, all insurance policies of every kind and character, and all deeds and title papers, all and each of the above shall vest in and become absolute property of, the New Company, free and

clear of all claims of the Debtor, its Trustee, its stockholders and creditors. In confirmation thereof, said Debtor, and the Trustee of said Debtor, shall, on and after said date, by proper conveyances, bills of sale, assignments and other instruments of transfer, convey, sell, assign and transfer to the New Company, full and absolute title to, and shall make delivery to the New Company of, all of said property of every kind and character, whether real, personal or mixed, and assets of every kind and character, free and clear of all claims of the Debtor, said Trustee and the Debtor's creditors and stockholders.

Simultaneously with the transfer of said properties, assets, business and good will, or promptly thereafter, and as consideration therefor, the New Company shall assume the obligations of the Debtor under and pursuant to the Plan and shall cause to be delivered and/or issued to, or upon the order of, the Debtor, the securities described in the Plan to which the creditors and stockholders of the Debtor are entitled, as more fully described in the Plan.

Article XVI.

Liabilities of Debtor to be Assumed by New Company.

The New Company shall, as part consideration for the properties, assets, business and good will, transferred to it pursuant to this order, assume and agree to pay in full all costs and expenses incident to the reorganization and all valid, legal and enforcible liabilities of the Debtor which have not been paid at the time of such acquisition, except such indebtedness as shall be satisfied under the Plan by the issuance of securities of the New Company. All indebtedness, liabilities and contracts incurred by the receivers and the Trustee of the Debtor not otherwise satisfied in accordance with appropriate court orders, as well as any liability which might exist to the Federal Government directly for income taxes from prior years, are assumed by the New Company.

Article XVII.

The Chief Executive Officer of the New Company.

The President of the New Company, who shall be the chief executive officer thereof from the date of the consummation of the Plan until his successor is appointed by the court, shall be H. N. Greis. During the period that the

court retains jurisdiction as provided in the Plan and this order, the compensation of all officers and employees of the New Company shall be fixed by its Board of Directors; provided, that salaries in excess of $5,000.00 per annum shall be subject to the approval of the court.

## Article XVIII.

### Manner and Time of Distributing New Securities and Notice Thereof.

As soon as reasonably practicable after the issuance and delivery to the Debtor, or upon the order of the Debtor, by the New Company of the securities referred to in the Plan and in this order which are directed to be issued and delivered, the Debtor shall cause said securities to be distributed to the creditors and stockholders of the Debtor in accordance with the Plan upon the surrender of the old securities or other evidences of indebtedness. When the securities of the New Company are available for distribution in accordance with the provisions of the Plan and of this order, the Debtor shall cause an announcement of that fact to be published once a week for three successive weeks in a newspaper of general circulation published in the City of Chicago, Illinois, and in a newspaper of general circulation published in the City of New York, New York, and in a newspaper of general circulation published in the City of Tulsa, Oklahoma, and by mailing a copy of said notice to each of the creditors and stockholders of the Debtor who are entitled to receive new securities under the Plan. The Debtor is further authorized and directed to deliver to the Committee the securities of the New Company required for distribution by the Committee to and among the creditors and preferred stockholders who have accepted the Amended Plan as modified hereby, by becoming and remaining depositors with said Committee under the deposit agreement, dated August 9, 1934, as amended November 10, 1936.

Upon the expiration of ninety days after publication of the announcement that the securities, or any part thereof, of the New Company are available for distribution, the Debtor and the Committee at its or their sole election may at any time deliver to the New Company all of said securities which then remain undistributed, together with the amount of all payments of interest or principal and all dividends

which may have been received thereon. Said securities of the New Company and the amount of all payments of interest or principal and all dividends so delivered to the New Company shall be held by the New Company subject to the rights under the provisions of the Plan and of this order, except as otherwise provided in the next paragraph of this Article XVIII of this order. From and after the date of such delivery, any surrender of said securities of the Debtor shall be made to the New Company.

After said securities of the New Company have been delivered to the New Company, and after the expiration of two years from the publication of the announcement that said securities of the New Company are available for distribution, the New Company may at its sole election sell said securities, or any part thereof, of the New Company which then remain undistributed, at the highest price or prices obtainable, and place the proceeds in trust in one or more banking institutions qualified to act as depository for funds in bankruptcy, located in New York City, New York, Chicago, Illinois, or Tulsa, Oklahoma, for the proportionate benefit of the holders and owners of the securities of the Debtor which have not then been surrendered for participation under the said Plan, and such proceeds shall thereafter be paid by said depository or depositories to said owners and holders of said securities of the Debtor upon surrender of said securities by the owners and holders thereof for cancellation. Said New Company may from time to time elect which of the above alternatives will be adopted, either as to income debentures or common stock of the New Company, in order to allow owners and holders of the securities of the Debtor to participate in said Plan or in the equivalent cash proceeds realized upon the sale of the securities to be distributed under said Plan.

## Article XIX.

### Exemption From Securities Act and Revenue Act.

The securities of the Debtor are securities modified and issued pursuant to a Plan of Reorganization within the meaning of sub-division (h) of Section 77b, and said securities shall be exempt from all the provisions of the Securities Act of 1933 approved May 7, 1933, as amended, except the provisions of subdivision 2 of Section 12 and Section 17, respectively, thereof, and except the provisions of Section 24 thereof, as

applied to any willful violation of Section 17. The reorganization herein effected is a "reorganization" within the meaning of the Revenue Act of the United States.

## Article XX.

### Plan Binding on All Creditors and Stockholders; Disallowance of Unfiled Claims and Injunctions.

The Plan and this order shall be binding upon all creditors and stockholders of the Debtor and all claimants against the property of the Debtor, including those who have not accepted the Plan, as well as those who have accepted it, and all creditors of the Debtor, secured or unsecured, whether or not affected by the Plan, and whether or not their claims have been filed in this proceeding, and if so filed, whether or not approved and allowed. Notice having heretofore been given pursuant to the above order of November 19, 1934, requiring the claims and interests of all creditors and stockholders of the Debtor to be filed or evidenced on or before January 20, 1935, all claims of creditors and all interests of stockholders not heretofore filed or evidenced and allowed in this cause in the manner provided in said order entered November 19, 1934, shall be finally barred and foreclosed, and no claim or interest so barred and foreclosed shall be enforced against the assets of the Debtor or against the New Company, or any assets of the Debtor transferred pursuant to this order to the New Company, or any portion thereof, and no holder of any claim or interest so barred or foreclosed, shall be entitled to any right whatsoever under the Plan or this order.

All persons, firms and corporations, including all creditors and stockholders of the Debtor of each and every class, are hereby respectively, severally and jointly, perpetually enjoined and restrained from instituting, maintaining or prosecuting any suit, cause of action or proceeding of any kind or character whatsoever against the Debtor, the New Company, or against any nominee, sucessor, assignee or grantee of the New Company, or against any person, firm or corporation claiming by, through or under them, or any of them, or against any of the properties, assets, business or good will transferred, conveyed, assigned or vested by this order in the New Company, arising out of or based upon any obligation or liability of any kind or character of the Debtor, except

pursuant to the terms and provisions of the Plan hereby confirmed and this Order.

The Convertible Gold Notes of the Debtor, the $7.00 Cumulative Convertible Preferred Stock of the Debtor, the Common Stock of the Debtor, the claims of Standard Gas and Electric Company, and the claims of other general creditors of the Debtor if any, be and they are hereby cancelled and declared null and void, and the holders and owners thereof are hereby deprived of any and all rights arising out of or incident to the ownership thereof, except that the owners and holders thereof may participate in the Plan confirmed by this order in the manner prescribed in the Plan and by this order.

The Debtor and the New Company are hereby discharged from all obligation and liability of every kind and character whatsoever to Standard Gas and Electric Company, the holders and owners of Convertible Gold Notes of the Debtor, $7.00 Cumulative Convertible Preferred Stock and Common Stock of the Debtor, and to the general creditors of the Debtor, except as provided by the Plan, hereby confirmed and this order, and the holders and owners of said notes, stocks and all other claims are hereby deprived of all rights incident to the ownership thereof, except the right to participate in the Plan confirmed in this order, in the manner and to the extent provided in said Plan and in this order.

## Article XXI.

### Matters Reserved and Hearings Directed.

This court hereby reserves and retains jurisdiction over these proceedings and the subject matter thereof, as follows:

(a) Over the New Company's affairs, including, from time to time, the consideration and approval of the personnel of the board of directors of the New Company, for the period of time as provided for in the Plan and in this order.

(b) To name the chief executive officer of the New Company and his successors, and to approve the compensation of officers and employees as herein above provided.

(c) To determine and cause to be paid by the New Company the administrative expenses and allowances and reasonable compensation for the services rendered, and reimburse-

ment for the actual and reasonable expenses incurred, in connection with these proceedings, in connection with the prior proceedings of the Debtor in this court, and in connection with the Plan, by the parties in interest, depositaries, reorganization committees, or other representatives of creditors and stockholders, and the attorneys or agents of any of the foregoing, and to approve or disapprove all amounts to be paid by the New Company, and all amounts to be paid to the committees or reorganization committees by the New Company, for services and expenses incident to this proceeding, prior proceedings in this court and the reorganization of the Debtor. All amounts approved for payment or reimbursement on account of such expenses, allowances, compensation, or services shall be paid by the New Company.

(d) To consider and approve the Certificate of Incorporation and By-laws of the New Company, the new indenture to create and secure the income debentures, the income debentures themselves, the shares of new Common Stock and the Stock Certificates and all other agreements and other instruments that may be necessary or appropriate to consummate the Plan.

(e) To hear and determine any and all controversies with respect to the consummation of the Plan, including the transfer of assets and delivery and distribution of securities in accordance with the Plan and as directed by this order, and to make from time to time such further orders modifying, amplifying or extending this order as may be appropriate for the purpose of enforcing or carrying out the provisions of this order and consummating the Plan hereby confirmed, and as to this court may at any time seem proper.

(f) Generally, to determine any and all matters pertaining to these proceedings or to the Plan, not determined heretofore by the court, and to make from time to time such orders as to this court may seem proper in exercising the powers conferred by the provisions of Section 77b.

All persons claiming compensation for services rendered and reimbursement for expenses incurred in connection with this proceeding shall file with the court, and furnish a copy to the Trustee, a petition setting up such claims on or before January 23, 1937.

The Honorable Preston C. West, Special Master to whom various matters in this cause have been specially referred, shall on or before January 23, 1937 report to this court his claim for allowance for his fees and expenses.

For the foregoing purposes and for the determination of all matters germane to these proceedings not heretofore determined, this hearing is hereby continued without further notice to February 3, 1937. Any objections to the Plan as modified hereby may be filed on or before January 23, 1937, with the clerk of the court.

Enter:

(Signed) F. E. KENNAMER, Judge.

To this order the Independent Committee for the protection of the rights of the preferred stockholders excepts and their exceptions are allowed.

(Signed) F. E. KENNAMER.

Dated December 22, 1936.

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Exhibit A.

In the District Court of the United States for the Northern District of Oklahoma.

In the Matter of Deep Rock Oil Corporation, a Corporation, Debtor. In Bankruptcy No. 2318 Consolidated.

Notice to the Creditors and Stockholders of Deep Rock Oil Corporation Who Have Accepted the Amended Plan of Reorganization:

You Are Hereby Notified that the Amended Plan of Reorganization which you have already accepted, was modified with the approval of the court at the confirmation hearing on December 22, 1936. A copy of said modifications to the Amended Plan of Reorganization is sent you herewith.

Under the order of the court, you have a right to file with the Depositaries of the undersigned Committee, The First National Bank of Chicago, 38 South Dearborn Street, Chicago, Illinois, and The Chase National Bank of the City of New York, 11 Broad Street, New York, N. Y., on or before January 11, 1937, a written request to withdraw, without expense, your acceptance of said Amended Plan of Reorganization.

If you do not withdraw your acceptance within this period, you will be deemed to have accepted said Amended Plan of Reorganization as thus modified.

You are further notified that under the order of the court entered December 22, 1936, the Amended Plan of Reorganization, as thus modified, will be confirmed by the court and all parties authorized to consummate it, if after January 11, 1937, the principal amount of notes and the number of shares of Preferred Stock remaining on deposit with the above named Depositaries of the Committee is equal to or in excess of the amounts required by Section 77b of the Bankruptcy Act, as amended, and if the Amended Plan of Reorganization as thus modified is accepted by Standard Gas and Electric Company before February 8, 1937, pursuant to authority from the District Court of the United States for the District of Delaware.

This notice is mailed to you by the undersigned Committee pursuant to the order and direction of said court.

JOHN J. SHINNERS, Chairman
NEWTON P. FRYE,
ROBERT F. HOLDEN,
JOHN H. MASON,
GRAYSON M.-P. MURPHY,
ALBERT J. ROBERTSON,
Reorganization Committee.

Dated December 22, 1936.

(Initialed)
F. E. K.

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Exhibit B.

In the District Court of the United States for the Northern District of Oklahoma.

In the Matter of Deep Rock Oil Corporation, a Corporation, Debtor. In Bankruptcy No. 2318 Consolidated.

Notice to the Creditors and Stockholders of Deep Rock Oil Corporation Who Have Accepted the Amended Plan of Reorganization:

You Are Hereby Notified that the Amended Plan of Reorganization which you have already accepted, was modified

with the approval of the court at the confirmation hearing on December 22, 1936. A copy of said modifications to the Amended Plan of Reorganization may be obtained from the Trustee, H. N. Greis, Esq., the undersigned Committee or from the Depositaries of the undersigned Committee, The First National Bank of Chicago, 38 South Dearborn Street, Chicago, Illinois, and The Chase National Bank of the City of New York, 11 Broad Street, New York, N. Y.

Under the order of the court, you have the right to file with the Depositaries of the undersigned Committee, The First National Bank of Chicago, 38 South Dearborn Street, Chicago, Illinois, and The Chase National Bank of the City of New York, 11 Broad Street, New York, N. Y., on or before January 11, 1937, a written request to withdraw, without expense, your acceptance of said Amended Plan of Reorganization. If you do not withdraw your acceptance within this period, you will be deemed to have accepted said Amended Plan of Reorganization as thus modified.

You are further notified that under the order of the court entered December 22, 1936, the Amended Plan of Reorganization, as thus modified, will be confirmed by the court and all parties authorized to consummate it, if after January 11, 1937, the principal amount of notes and the number of shares of Preferred Stock remaining on deposit with the above named Depositaries of the Committee is equal to or in excess of the amounts required by Section 77b of the Bankruptcy Act, as amended, and if the Amended Plan of Reorganization as thus modified is accepted by Standard Gas and Electric Company before February 8, 1937 pursuant to authority from the District Court of the United States for the District of Delaware.

This notice is published by the undersigned Committee pursuant to the order and direction of said court.

JOHN J. SHINNERS, Chairman,
NEWTON P. FRYE,
ROBERT F. HOLDEN,
JOHN H. MASON,
GRAYSON M.-P. MURPHY,
ALBERT J. ROBERTSON,
Reorganization Committee.

Dated December 22, 1936.
(Initialed)
F. E. K.

Order Approving Compromise of Claim of Standard Gas & Electric Company in Accordance with Offer Made by Standard Gas & Electric Company, Dated November 7, 1936, and Adjudicating and Allowing Said Claim Under the Terms and Subject to the Conditions of Said Offer of Compromise.

This cause coming on to be heard this 12th day of December, 1936, upon the motion of Mr. N. A. Gibson, attorney for Standard Gas & Electric Company, and upon the petition of Standard Gas & Electric Company filed herein November 9, 1936, presenting a new offer of compromise of the claim of Standard Gas & Electric Company dated November 7, 1936, attached to said petition; and upon notice by mail and publication to the creditors and stockholders of the Debtor, in conformity with the requirements of Section 77b of the Bankruptcy Act of the United States, as amended, and with the order of this court entered November 9, 1936, granting leave to Standard Gas & Electric Company to file said offer of compromise; and this cause having been specially set for hearing at this time, and the court having considered all of the evidence, written and oral, introduced herein, and it appearing to the court that the holders of $7,814,000 principal amount of convertible gold notes of the Debtor and the holders of 30,943 shares of preferred stock of the Debtor, have evidenced their approval of the said proposed offer of compromise dated November 7, 1936, filed herein by Standard Gas & Electric Company on November 9, 1936, by depositing their securities or leaving their securities on deposit with the Reorganization Committee, parties intervener herein; and the court having heard arguments of counsel and being fully advised in the premises Doth Find, Order, Adjudge and Decree as follows:

1. The terms, provisions and conditions of the new offer of compromise of Standard Gas & Electric Company, dated November 7, 1936, a copy of which is attached hereto as Exhibit A to this order, be and the same are hereby in all respects approved; and H. N. Greis, Trustee herein, is hereby authorized and directed to accept said proposal and compromise.

2. The unsecured claim of Standard Gas & Electric Company filed herein in the principal amount of $9,342,642.37, be and the same is hereby allowed in the following amounts:

A. The principal sum of $ 2,376,076.31;
(being the principal amount (after allowing Deep Rock Oil Corporation credits for payments made by it) paid by Standard Gas and Electric Company to third parties not affiliated with Standard Gas and Electric Company for the account of Deep Rock Oil Corporation since February 24, 1928, for which Deep Rock Oil Corporation was legally obligated to such third parties.)

Interest on said principal sum at the rate of 5% per annum from the dates of the several advances constituting said sum to February 28, 1933, being 407,886.18;

And in addition thereto interest on said principal sum of $2,376,076.31, at the rate of 5% per annum from February 28, 1933, to the date of entry of judgment on this offer; and

B. The sum of $1,585,485.18
with interest on $1,597,985.18 from February 28, 1933, at 5% per annum simple interest, to August 5, 1933, and interest on $1,585,485.18 at 5%, simple interest, per annum from August 5, 1933, to the date of entry of judgment on this offer.

C. Of the aggregate sum allowed as provided in Paragraphs A and B above, the amount of $1,500,000 is allowed upon a parity with the $10,000,000 principal amount of notes of Deep Rock Oil Corporation, dated March 1, 1928, and interest thereon at the rate per annum allowed by the Court in this cause from March 1, 1933, to this date, and to be on a parity with other indebtedness of Deep Rock Oil Corporation to other persons; and the balance of said aggregate sum is subordinated to the $10,000,000 of notes and other indebtedness.

The allowance of the claim of Standard Gas & Electric Company, as herein provided, is expressly made subject to the terms and conditions, and each of them, set forth in the offer of compromise dated November 7, 1936, filed herein by Standard Gas & Electric Company on November 9, 1936, and attached hereto as Exhibit A.

3. Standard Gas & Electric Company, H. N. Greis, Trustee herein, and the Debtor, are hereby authorized and directed to take all steps and to do all acts that may be necessary and appropriate to fulfill and consummate the compromise of the claim of Standard Gas & Electric Company hereby allowed in accordance with the terms and conditions of said offer of compromise dated November 7, 1936, filed herein November 9, 1936, and attached hereto as Exhibit A.

4. This order is entered upon the express condition that the court, on or before February 8, 1937, shall confirm a plan of reorganization acceptable to Standard Gas & Electric Company, and that such order of confirmation shall be affirmed on review if an appeal be taken therefrom by one or more parties in interest entitled to such an appeal. If a plan of reorganization acceptable to Standard Gas & Electric Company is not finally confirmed by this court on or before February 8, 1937, or if the order of confirmation of such plan of reorganization is reversed if an appeal is taken therefrom by any party in interest entitled to so appeal, this order shall thereupon be and become null and void and of no force and effect whatsoever, and Standard Gas & Electric Company, The Trustee of the Debtor herein, H. N. Greis, and all other parties in interest, will thereupon automatically be restored to the same position as if this judgment had not been entered and as if the offer of compromise and settlement of Standard Gas & Electric Company had not been made.

5. This court hereby reserves and retains jurisdiction over this proceeding and over the subject-matter of this order until all of the matters and things herein provided have been fully executed and consummated. Counsel for the Independent Preferred Stockholders Committee, interveners herein and for Wm. H. and John Taylor except to this order.

Made and Ordered Entered this 22 day of December, 1936.

F. E. KENNAMER, Judge.

(S) N. A. GIBSON,
(S) WILBUR HOLLEMAN,
(S) GIBSON & HOLLEMAN,
Counsel for Standard Gas & Electric Company.

(S) GEO. S. RAMSEY,
(S) VILLARD MARTIN,
(S) EDGAR A. de MEULES,
Counsel for Trustee.

Endorsed: Filed Dec. 22, 1936. H. P. Warfield, Clerk U. S. District Court.

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Exhibit A.

(This Exhibit is a copy of the New Offer of Compromise by Standard and appears in this Record in Reorganization Committee's Exhibit #1.)

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Operating Report of Trustee for the Period of Time from March 1, 1933 to November 30, 1936.

Comes now your Trustee, H. N. Greis, and respectfully files herewith his operating report as Trustee of Deep Rock Oil Corporation, for the period of time from March 1, 1933 to November 30, 1936.

Dated this 11th day of January, A. D. 1937.

H. N. GREIS, as Trustee.

Endorsed: Filed Jan. 11, 1937. H. P. Warfield, Clerk U. S. District Court.

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H. N. Greis as Trustee for Deep Rock Oil Corporation Operating Report March 1, 1933, to November 30, 1936. January 5, 1937.

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H. N. Greis as Trustee for Deep Rock Oil Corporation, Atlas Life Building, Tulsa.

January 5, 1937

Mr. H. N. Greis, Office.

Dear Sir: I hand you herewith Operating Report for the period from March 1, 1933, to November 30, 1936.

Page 1 of this report is a comparative balance sheet prepared from the Receivers' and Trustee's records and reflects the valuation of certain assets as taken over on March 1, 1933, and the total of such assets as of November 30, 1936, including the assets of the Deep Rock Oil Company and the Deep Rock Petroleum Company which were taken over in consideration of cancelation of open accounts due the estate. This report also shows the unpaid obligations created by the Receivers and Trustee in the operation of the properties during this period. In the preparation of this balance sheet, no consideration has been given to value of physical assets and investment in securities as of March 1, 1933, excepting the physical assets of the Deep Rock Oil Company and the Deep Rock Petroleum Company which were received in consideration of cancelation of open accounts.

Page 2 of this report shows consolidated earnings resulting from the operation of the property by the Receivers and Trustee for forty-five months ending November 30, 1936.

Page 3 shows such earnings for each of the several departments.

Page 4 is a reconciliation of earnings and cash, and explains the difference between earnings as shown on page two and increase in cash during the period as reflected by the balance sheet.

Page 5 is a statement of the amount expended by the Receivers and the Trustee for improvements and additions to plant account.

Page 6 is a statement of the amount invested by Receivers and the Trustee in the purchase of securities.

Page 7 is an explanation of the difference between the net assets as of March 1, 1933, and November 30, 1936, as reflected by the balance sheet, which, as previously explained, does not include physical properties or investments in securities at March 1, 1933, other than the physical assets acquired

as a result of cancelation of open accounts of Deep Rock Oil Company and Deep Rock Petroleum Company.

At date of receivership the Corporation's outstanding liabilities for current obligations, as adjusted to November 30, 1936, including accruals for state and local taxes and payments made by the Receivers and Trustee for compensation and other liability in connection with personal injury claims originating prior to receivership, were $793,951.89.

To November 30, 1936, such obligations have been reduced by payments in the total sum of $724,772.11, leaving a balance of $69,179.78 as unpaid November 30, 1936, exclusive of contingent liabilities.

| | March 1, 1933 | November 30, 1936 | Increase *Decrease* |
|---|---|---|---|
| Cash | $ 394,181.09 | $ 4,447,274.94 | $4,053,093.85 |
| Notes and accounts receivable, including amounts due from subsidiary companies | 1,118,844.60 | 1,316,638.01 | 197,793.41 |
| Inventories | 1,529,240.78 | 2,513,588.58 | 984,347.80 |
| Cash deposited in escrow | ..... | 257,500.00 | 257,500.00 |
| Other Special Funds | ..... | 7,077.67 | 7,077.67 |
| Federal Income Tax Refunds Receivable | ..... | 76,484.26 | 76,484.26 |
| Advances, deposits, prepaid accounts, etc. | 88,563.91 | 99,933.12 | 11,369.21 |
| Additions to Plant Account and Dispensing Equipment, including oil and gas leases | 90,079.07 | 2,697,700.43 | 2,607,621.36 |
| Securities Owned | ..... | 30,613.96 | 30,613.96 |
| | 3,220,909.45 | 11,446,810.97 | 8,225,901.52 |
| Less: | | | |
| Trustee's obligations to creditors, including reserves | 2,013.58 | 1,273,089.79 | 1,271,076.21 |
| Trustee's net assets, not including value of property account and securities as of March 1, 1933 | $3,218,895.87 | $10,173,721.18 | $6,954,825.31 |

Word in italic appears in red in original.

The Trustee's net assets have been increased by $6,954,-825.31; adding to this sum the claims paid in the amount of $724,772.11 and $715.58 paid to redeem Home Oil Company debentures gives a total of $7,680,313.00, representing the net increase in the estate before giving consideration to certain property abandonments which have not been reflected on the books of the Trustee.

Funds for securing these additional assets and payments of claims against the Corporation were obtained as follows:

| | |
|---|---|
| From net earnings after deducting interest paid by the Receivers and the Trustee, dry hole and abandoned well expenses, cancelled and surrendered leases and provisions for bad debts | $ 6,299,443.25 |
| From sale of Arkansas producing properties, sale of miscellaneous property, collections received on investments and accounts not recorded on Receivers' and Trustee's books, and miscellaneous adjustments affecting business prior to receivership | 1,293,930.22 |
| Additional assets acquired as result of liquidation of Deep Rock Oil Company and Deep Rock Petroleum Company | 86,939.53 |
| | $7,680,313.00 |

I am attaching statement of Trustee's Accounts Payable, including other reserves, as of November 30, 1936, in the amount of $1,273,089.79. Included in this amount are accounts totaling $307,834.34 which are of a current nature but for various reasons are not due and payable as at date of this statement. These accounts are as follows:

| | |
|---|---|
| Wilcox Oil & Gas Company—Contract Deposit Account | $ 20,000.00 |
| Commercial Solvents Corporation | 20,467.72 |
| Deep Rock Oil and Refining Company (credit for materials removed from properties) | 70,197.72 |
| Accrual for ad valorem and special taxes (not including State and Federal gasoline taxes) | 83,952.02 |
| Oil and gas purchases held in suspense | 9,616.25 |
| Reserve for compensation claims, etc. | 103,600.63 |
| | $307,834.34 |

The remainder of accounts ($965,255.45) is of a current nature and substantially all was paid during the month of December 1936.

Yours very truly,

O. O. KERR, General Auditor.

OOK:NW

Analysis of Accounts Payable November 30, 1936.

| | |
|---|---|
| Oil Purchases | $ 340,839.23 |
| Pay Rolls | 35,836.33 |
| State Gasoline Tax | 145,791.90 |
| Federal Gasoline and Lube Tax | 58,376.58 |
| Oklahoma Gas and Electric Company | 13,142.79 |
| Refinery Freight | 24,654.83 |
| Commissions | 47,904.03 |
| Universal Oil Products Company | 8,303.84 |
| Chicago Accounts Payable | 21,874.08 |
| Miscellaneous | 218,131.94 |
| Crude Suspense | 9,616.25 |
| Oklahoma Tax Commission | 15,471.96 |
| Gas and Casinghead Gas Purchases | 5,362.28 |
| Coupon Account | 5,681.84 |
| State Sales Tax | 3,890.08 |
| Wilcox Oil and Gas Company—Contract Deposit Account | 20,000.00 |
| Accrued Steam | 2,054.92 |
| Sundry | 37,582.26 |
| Accrued Real Estate, Personal Property, and Special Taxes | 83,952.02 |
| Southern Illinois Service Stations Company | 824.28 |
| Deep Rock Oil and Refining Company | 70,197.72 |
| Reserve for Compensation Insurance, Etc. | 103,600.63 |
| | $ 1,273,089.79 |

11-30-36 OPERATING REPORT

# [illegible] GRIFFITH AS TRUSTEE
# FOR DEEP ROCK OIL CORPORATION

## INCOME STATEMENT
## INCLUDING SUBSIDIARY COMPANIES

| | GROSS EARNINGS | | OPERATING EXPENSES, ETC. | | NET EARNINGS (*) | |
|---|---|---|---|---|---|---|
| 1933 | MONTH | YEAR ENDED | MONTH | YEAR ENDED | MONTH | YEAR ENDED |
| MARCH | $ 749 302 25 | | $ 665 683 95 | | $ 83 618 30 | |
| APRIL | 787 787 84 | | 748 139 66 | | 39 648 18 | |
| MAY | 735 707 33 | | 851 539 89 | | 115 832 56 (RED) | |
| JUNE | 816 477 15 | | 505 234 54 | | 311 242 61 | |
| JULY | 797 770 93 | | 499 169 20 | | 298 601 73 | |
| AUGUST | 924 043 49 | | 700 020 70 | | 224 022 79 | |
| SEPTEMBER | 997 676 26 | | 491 808 56 | | 505 869 70 | |
| OCTOBER | 1 013 334 76 | | 951 640 35 | | 61 694 41 | |
| NOVEMBER | 970 120 76 | | 836 704 07 | | 133 416 69 | |
| DECEMBER | 972 123 28 | | 834 775 54 | | 137 347 74 | |
| 1934 | | | | | | |
| JANUARY | 1 030 812 99 | | 904 073 81 | | 126 739 18 | |
| FEBRUARY | 991 644 79 | $ 10 786 803 83 | 885 590 00 | $ 8 874 380 27 | 106 054 79 | $ 1 912 423 56 |
| MARCH | 1 112 549 93 | 11 150 051 51 | 979 855 62 | 9 188 [illegible] 84 | 132 714 31 | 1 861 [illegible] 57 |
| APRIL | 1 063 227 16 | 11 425 490 85 | 940 904 77 | 9 381 [illegible] 05 | 122 322 41 | 2 044 193 80 |
| MAY | 1 055 643 13 | 11 745 [illegible] 65 | 889 922 53 | 9 419 [illegible] 69 | 165 720 60 | 2 [illegible] 96 |
| JUNE | 1 019 495 37 | 11 948 442 87 | 945 800 79 | 9 860 245 94 | 73 692 58 | 2 088 196 [illegible] |
| JULY | 994 148 87 | 12 144 820 81 | 951 009 41 | 10 312 086 15 | 43 139 46 | 1 832 734 66 |
| AUGUST | 1 092 490 57 | 12 313 267 89 | 1 023 872 83 | 10 635 938 28 | 68 617 74 | 1 677 329 61 |
| SEPTEMBER | 1 051 199 67 | 12 566 789 36 | 1 038 489 73 | 11 182 619 45 | 12 709 94 | 1 384 169 85 |
| OCTOBER | 1 166 046 21 | 12 459 500 75 | 1 088 117 79 | 11 319 096 [illegible] | 17 928 42 | 1 140 403 [illegible] |
| NOVEMBER | 1 097 149 06 | 12 586 529 05 | 1 025 265 30 | 11 507 658 12 | 71 883 76 | 1 078 870 [illegible] |
| DECEMBER | 1 097 220 64 | 12 711 626 41 | 1 007 283 76 | 11 680 166 34 | 89 936 88 | 1 031 460 07 |
| 1935 | | | | | | |
| JANUARY | 1 127 165 35 | 12 807 978 77 | 1 043 184 14 | 11 819 276 67 | 83 981 21 | 988 702 10 |
| FEBRUARY | 1 030 237 88 | 12 846 571 66 | 922 105 77 | 11 855 792 44 | 108 132 11 | 990 779 42 |
| MARCH | 1 157 732 36 | 12 871 754 29 | 988 042 31 | 11 863 939 13 | 149 690 05 | 1 007 755 16 |
| APRIL | 1 282 602 37 | 13 091 129 48 | 1 077 078 72 | 12 000 173 08 | 205 523 65 | 1 090 956 40 |
| MAY | 1 302 890 31 | 13 338 376 66 | 1 119 060 33 | 12 [illegible] 310 88 | 183 [illegible] 98 | 1 109 [illegible] 78 |
| JUNE | 1 110 304 68 | 13 429 187 97 | 991 482 64 | 12 274 992 73 | 118 822 04 | 1 154 195 24 |
| JULY | 1 218 595 55 | 13 653 634 65 | 1 051 644 03 | 12 [illegible] 627 35 | 156 951 52 | 1 268 007 30 |
| AUGUST | 1 283 521 76 | 13 844 665 84 | 1 136 950 07 | 12 498 704 59 | 146 571 69 | 1 345 961 25 |
| SEPTEMBER | 1 227 300 92 | 14 020 767 09 | 1 049 966 46 | 12 510 181 32 | 177 334 46 | 1 510 585 77 |
| OCTOBER | 1 289 807 78 | 14 204 528 66 | 1 149 424 59 | 12 571 488 12 | 140 383 19 | 1 633 040 54 |
| NOVEMBER | 1 178 489 10 | 14 285 868 70 | 1 034 308 84 | 12 580 531 66 | 144 180 26 | 1 [illegible] 337 04 |
| DECEMBER | 1 104 710 69 | 14 293 358 75 | 959 731 32 | 12 532 979 22 | 144 979 37 | 1 760 379 53 |
| 1936 | | | | | | |
| JANUARY | 1 212 602 15 | 14 378 [illegible] 55 | 933 909 66 | 12 423 704 74 | 278 692 49 | 1 955 [illegible] 81 |
| FEBRUARY | 1 083 807 60 | 14 432 365 27 | 991 503 38 | 12 493 102 35 | 92 304 22 | 1 [illegible] 92 |
| MARCH | 1 213 742 90 | 14 508 375 81 | 1 035 301 21 | 12 540 361 25 | 178 441 69 | 1 968 014 56 |
| APRIL | 1 432 305 13 | 14 658 078 57 | 1 204 242 37 | 12 667 524 90 | 228 062 76 | 1 990 553 67 |
| MAY | 1 477 652 91 | 14 832 841 17 | 1 217 454 71 | 12 765 919 28 | 260 198 20 | 2 066 921 89 |
| JUNE | 1 419 865 21 | 15 [illegible] 401 70 | 1 234 763 81 | 13 009 200 45 | 185 101 40 | 2 133 201 25 |
| [illegible] | 1 [illegible] 67 | 15 [illegible] 62 | 1 279 725 09 | 13 227 281 51 | 154 328 38 | 2 130 [illegible] 11 |
| [illegible] | 1 [illegible] 22 | 15 [illegible] 80 | 1 276 473 85 | 13 366 805 29 | 168 143 37 | 2 172 149 79 |
| [illegible] | 1 [illegible] 84 | 15 871 166 50 | 1 207 235 84 | 13 524 074 67 | 152 276 50 | 2 147 091 83 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| MAY ..... | 775 707 33 | | | | 851 539 89 | | | | 39 648 18 | | | |
| JUNE ..... | 816 477 15 | | | | 505 234 54 | | | | 115 832 56 (RED) | | | |
| JULY ..... | 797 770 93 | | | | 499 169 20 | | | | 311 242 61 | | | |
| AUGUST ..... | 924 047 49 | | | | 700 020 70 | | | | 298 601 73 | | | |
| SEPTEMBER .. | 997 678 26 | | | | 491 808 56 | | | | 224 022 79 | | | |
| OCTOBER .... | 1 013 334 76 | | | | 951 640 35 | | | | 505 869 70 | | | |
| NOVEMBER ... | 970 120 76 | | | | 836 704 07 | | | | 61 594 41 | | | |
| DECEMBER ... | 972 123 28 | | | | 834 775 54 | | | | 133 416 69 | | | |
| | | | | | | | | | 137 347 74 | | | |
| 1934 | | | | | | | | | | | | |
| JANUARY .... | 1 030 812 99 | | | | 904 073 81 | | | | 126 739 18 | | | |
| FEBRUARY ... | 991 644 76 | $ 10 | 786 | 803 83 | 885 590 00 | * 8 | 874 | 380 27 | 106 054 79 | $ 1 | 912 | 423 56 |
| MARCH ..... | 1 112 549 9. | 11 | 150 | 051 51 | 979 855 62 | 9 | 188 | 531 84 | 132 714 31 | 1 | 861 | 516 57 |
| APRIL ..... | 1 063 227 16 | 11 | 425 | 490 85 | 940 904 77 | 9 | 381 | 297 05 | 122 322 41 | 2 | 044 | 193 80 |
| MAY ..... | 1 055 643 13 | 11 | 745 | 426 65 | 889 922 53 | 9 | 419 | 679 69 | 165 720 60 | 2 | 325 | 746 96 |
| JUNE ..... | 1 019 495 37 | 11 | 948 | 442 87 | 945 800 79 | 9 | 860 | 245 94 | 73 692 58 | 2 | 088 | 196 97 |
| JULY ..... | 994 148 87 | 12 | 144 | 820 81 | 951 009 41 | 10 | 312 | 086 15 | 43 139 46 | 1 | 832 | 734 66 |
| AUGUST ..... | 1 092 490 57 | 12 | 313 | 267 89 | 1 023 872 83 | 10 | 635 | 938 28 | 68 617 74 | 1 | 677 | 329 61 |
| SEPTEMBER .. | 1 051 199 67 | 12 | 366 | 789 36 | 1 038 489 73 | 11 | 182 | 619 45 | 12 709 94 | 1 | 164 | 166 85 |
| OCTOBER .... | 1 106 046 21 | 12 | 459 | 500 75 | 1 088 117 79 | 11 | 319 | 096 89 | 17 928 42 | 1 | 140 | 403 86 |
| NOVEMBER ... | 1 097 149 06 | 12 | 586 | 520 05 | 1 025 265 30 | 11 | 507 | 658 12 | 71 883 76 | 1 | 078 | 876 97 |
| DECEMBER ... | 1 097 220 64 | 12 | 711 | 626 41 | 1 007 283 76 | 11 | 680 | 166 34 | 89 936 88 | 1 | 031 | 460 07 |
| 1935 | | | | | | | | | | | | |
| JANUARY .... | 1 127 165 35 | 12 | 807 | 978 77 | 1 043 184 14 | 11 | 819 | 276 67 | 83 981 21 | | 988 | 702 10 |
| FEBRUARY .. | 1 030 237 88 | 12 | 846 | 571 86 | 922 105 77 | 11 | 855 | 792 44 | 108 132 11 | | 990 | 779 42 |
| MARCH ..... | 1 157 732 36 | 12 | 871 | 754 29 | 988 042 31 | 11 | 863 | 999 13 | 149 690 05 | 1 | 007 | 755 16 |
| APRIL ..... | 1 282 602 37 | 13 | 091 | 129 48 | 1 077 078 72 | 12 | 000 | 173 08 | 205 523 65 | 1 | 090 | 956 40 |
| MAY ..... | 1 302 890 31 | 13 | 338 | 376 66 | 1 119 060 33 | 12 | 229 | 310 88 | 193 826 98 | 1 | 109 | 065 78 |
| JUNE ..... | 1 110 304 68 | 13 | 429 | 187 97 | 991 482 64 | 12 | 274 | 992 73 | 118 822 04 | 1 | 154 | 195 24 |
| JULY ..... | 1 218 595 55 | 13 | 653 | 634 65 | 1 051 644 03 | 12 | 385 | 627 35 | 156 951 52 | 1 | 268 | 007 30 |
| AUGUST ..... | 1 283 521 76 | 13 | 844 | 665 84 | 1 136 950 07 | 12 | 498 | 704 59 | 146 571 69 | 1 | 345 | 961 25 |
| SEPTEMBER .. | 1 227 300 92 | 14 | 020 | 767 09 | 1 049 966 46 | 12 | 510 | 181 32 | 177 324 45 | 1 | 510 | 585 77 |
| OCTOBER ..... | 1 289 807 78 | 14 | 204 | 528 66 | 1 149 424 59 | 12 | 571 | 488 12 | 140 383 19 | 1 | 633 | 040 54 |
| NOVEMBER ... | 1 178 489 10 | 14 | 285 | 868 70 | 1 034 308 84 | 12 | 580 | 531 66 | 144 190 26 | 1 | 705 | 337 04 |
| DECEMBER ... | 1 104 710 69 | 14 | 293 | 358 75 | 959 731 32 | 12 | 532 | 979 22 | 144 979 33 | 1 | 760 | 379 53 |
| 1936 | | | | | | | | | | | | |
| JANUARY .... | 1 212 602 15 | 14 | 378 | 795 55 | 933 909 66 | 12 | 423 | 704 74 | 278 692 49 | 1 | 955 | 030 81 |
| FEBRUARY ... | 1 083 807 60 | 14 | 432 | 365 27 | 991 503 38 | 12 | 493 | 102 35 | 92 304 22 | 1 | 936 | 262 92 |
| MARCH ..... | 1 213 742 90 | 14 | 508 | 575 81 | 1 035 301 21 | 12 | 540 | 361 25 | 178 441 69 | 1 | 968 | 014 56 |
| APRIL ..... | 1 432 305 13 | 14 | 658 | 078 57 | 1 204 242 37 | 12 | 667 | 524 90 | 228 062 76 | 1 | 990 | 553 67 |
| MAY ..... | 1 477 652 91 | 14 | 832 | 841 17 | 1 217 454 71 | 12 | 765 | 919 28 | 260 198 20 | 2 | 066 | 921 89 |
| JUNE ..... | 1 419 865 21 | 15 | 149 | 401 70 | 1 234 763 81 | 13 | 009 | 200 45 | 185 101 40 | 2 | 133 | 281 25 |
| [illegible] | [illegible] | [illegible] | | | 1 279 725 09 | 13 | 227 | 281 51 | 154 328 38 | 2 | 130 | 578 11 |
| [illegible] | [illegible] | [illegible] | | | 1 276 473 85 | 13 | 366 | 805 29 | 188 143 37 | 2 | 172 | 149 79 |
| [illegible] | [illegible] | [illegible] | | | 1 207 235 84 | 13 | 524 | 074 67 | 152 276 50 | 2 | 147 | 091 85 |
| [illegible] | [illegible] | [illegible] | | | 1 220 451 45 | 13 | 595 | 101 53 | 148 024 43 | 2 | 154 | 733 07 |
| NOVEMBER ... | 1 283 219 58 | 15 | 854 | 565 08 | 1 167 540 19 | 13 | 728 | 332 88 | 115 679 39 | 2 | 126 | 232 20 |

(*) DISREGARDS THE MINORITY INTEREST OUTSTANDING IN DEEP ROCK OIL CORPORATION OF NEBRASKA, A SUBSIDIARY AND BEFORE PROVISION FOR RENTAL OF PROPERTIES OF DEEP ROCK OIL AND REFINING COMPANY, FEDERAL AND STATE INCOME TAXES, INTEREST CHARGES, DEPLETION AND DEPRECIATION, AMORTIZATION OF NON-PRODUCTIVE LEASEHOLDS, AND AMORTIZATION OF DEBT DISCOUNT AND EXPENSE, COST OF DRY HOLES DRILLED, PROPERTY ABANDONMENTS, OIL AND GAS LEASE RENTALS, AND BAD DEBTS

# H. M. ORKIS AS TRUSTEE
# FOR BEEP ROCK OIL CORPORATION
## COMPARATIVE BALANCE SHEET

| | MARCH 1, 1933 | | NOVEMBER 30, 1936 | | INCREASE OR DECREASE |
|---|---|---|---|---|---|
| ASSETS: | | | | | |
| ADDITIONS TO PLANT AND PROPERTY ACCT.. | $ | | $2 601 471 20 | | $2 601 471 20 |
| DISPENSING EQUIPMENT IN HANDS OF CUSTOMERS - LESS RESERVE ..... | 90 079 07 | | 96 229 23 | | 6 150 16 |
| TOTAL ..... | | $ 90 079 07 | | $2 697 700 43 | 2 607 621 36 |
| SECURITIES OWNED..... | | | | 30 613 96 | 30 613 96 |
| CASH ..... | 394 181 09 | | 4 447 274 94 | | 4 053 093 85 |
| NOTES RECEIVABLE ..... | $ 79 477 57 | | $ 68 356 33 | | |
| ACCOUNTS RECEIVABLE .... | 1 276 177 10 | | 1 624 096 98 | | |
| RESERVE FOR BAD AND DOUBTFUL ACCOUNTS .... | 380 675 54(Cr.) | 974 379 13 | 551 246 44(Cr.) | 1 141 206 87 | 166 227 74 |
| INVENTORIES ..... | 1 529 240 78 | | 2 513 688 58 | | 984 347 80 |
| TOTAL ..... | | 2 898 401 00 | | 8 102 070 39 | 5 203 669 39 |
| CASH DEPOSITED IN ESCROW ..... | | - | 257 500 00 | | 257 500 00 |
| OTHER SPECIAL FUNDS ..... | | - | 7 077 67 | | 7 077 67 |
| TOTAL ..... | | - | | 264 577 67 | 264 577 67 |
| FEDERAL INCOME TAX REFUNDS RECEIVABLE. | | - | | 76 484 26 | 76 484 26 |
| DUE FROM SUBSIDIARY COMPANIES: | | | | | |
| BEEP ROCK PETROLEUM COMPANY ..... | 110 488 52 | | | | 110 488 52 |
| BEEP ROCK OIL CORPORATION OF NEBR... | 33 376 95 | | 106 035 60 | | 72 658 65 |
| BEEP ROCK OIL COMPANY OF WISCONSIN . | - | | 9 115 50 | | 9 115 50 |
| HIGH TEST OIL COMPANY ..... | - | | 60 063 32 | | 60 063 32 |
| SOUTHERN ILLINOIS S. S. COMPANY .... | - | | 216 72 | | 216 72 |
| TOTAL ..... | | 143 865 47 | | 175 431 14 | 31 565 67 |
| ADVANCES TO AGENTS ..... | 22 196 60 | | 22 331 05 | | 134 45 |
| PREPAID ACCOUNTS AND DEFERRED CHARGES. | 62 717 72 | | 71 700 77 | | 8 983 05 |
| MISCELLANEOUS DEPOSITS ..... | 3 649 59 | | 5 901 30 | | 2 251 71 |
| TOTAL ..... | | 88 563 91 | | 99 933 12 | 11 369 21 |
| | | $3 220 909 45 | | $11 446 810 97 | $8 225 901 52 |
| LIABILITIES: | | | | | |
| ACCOUNTS PAYABLE ..... | $ 2 013 58 | | $1 015 339 42 | | $1 013 325 84 |
| TAXES ACCRUED ..... | - | | 83 952 02 | | 83 952 02 |
| TOTAL ..... | | $ 2 013 58 | | $ 1 099 291 44 | 1 097 277 86 |
| BEEP ROCK OIL AND REFINING COMPANY ... | | | | 70 197 72 | 70 197 72 |
| | | | | | 107 600 63 |

| | | | | | |
|---|---|---|---|---|---|
| ..... | ~~90 079 07~~ | | 90 229 23 | | 6 150 16 |
| TOTAL ..... | | $ 90 079 07 | | $2 697 700 43 | 2 607 621 36 |
| SECURITIES OWNED..... | | | | 30 613 96 | 30 613 96 |
| CASH ..... | 394 181 09 | | 4 447 274 94 | | 4 053 093 85 |
| NOTES RECEIVABLE ..... $ 79 477 57 | | | $ 68 356 33 | | |
| ACCOUNTS RECEIVABLE .... 1 276 177 10 | | | 1 624 096 98 | | |
| RESERVE FOR BAD AND DOUBTFUL ACCOUNTS .... 380 675 54 | 974 379 13 | | 551 246 44 | 1 141 206 87 | 166 227 74 |
| INVENTORIES ..... | 1 529 240 78 | | 2 513 688 58 | | 984 347 80 |
| TOTAL ..... | | 2 898 401 00 | | 8 102 070 39 | 5 203 669 39 |
| CASH DEPOSITED IN ESCROW ..... | | - | 257 500 00 | | 257 500 00 |
| OTHER SPECIAL FUNDS ..... | | - | 7 077 67 | | 7 077 67 |
| TOTAL ..... | | - | | 264 577 67 | 264 577 67 |
| FEDERAL INCOME TAX REFUNDS RECEIVABLE. | | - | | 76 484 26 | 76 484 26 |
| DUE FROM SUBSIDIARY COMPANIES: | | | | | |
| DEEP ROCK PETROLEUM COMPANY ..... | 110 488 52 | | | | 110 488 52 |
| DEEP ROCK OIL CORPORATION OF NEBR... | 33 376 95 | | 106 035 60 | | 72 658 65 |
| DEEP ROCK OIL COMPANY OF WISCONSIN . | - | | 9 115 50 | | 9 115 50 |
| HIGH TEST OIL COMPANY ..... | - | | 60 063 32 | | 60 063 32 |
| SOUTHERN ILLINOIS S. S. COMPANY .... | - | | 216 72 | | 216 72 |
| TOTAL ..... | | 143 865 47 | | 175 431 14 | 31 565 67 |
| ADVANCES TO AGENTS ..... | 22 196 60 | | 22 331 05 | | 134 45 |
| PREPAID ACCOUNTS AND DEFERRED CHARGES. | 62 717 72 | | 71 700 77 | | 8 983 05 |
| MISCELLANEOUS DEPOSITS ..... | 3 649 59 | | 5 901 30 | | 2 251 71 |
| TOTAL ..... | | 88 563 91 | | 99 933 12 | 11 369 21 |
| | | $3 220 909 45 | | $11 446 810 97 | $8 225 901 52 |
| LIABILITIES: | | | | | |
| ACCOUNTS PAYABLE ..... $ 2 013 58 | | | $1 015 339 42 | | $1 013 325 84 |
| TAXES ACCRUED ..... - | | | 83 952 02 | | 83 952 02 |
| TOTAL ..... | | $ 2 013 58 | | $ 1 099 291 44 | 1 097 277 86 |
| DEEP ROCK OIL AND REFINING COMPANY ... | | | | 70 197 72 | 70 197 72 |
| [illegible] ..... | | | | 103 600 63 | 103 600 63 |
| EQUITY ..... | | 3 218 895 87 | | 10 173 721 18 | 6 954 825 31 |
| | | $3 220 909 45 | | $11 446 810 97 | $8 225 901 52 |

THE ABOVE BALANCE SHEET DOES NOT GIVE EFFECT TO VALUE OF PROPERTY ACCOUNT AND MISCELLANEOUS INVESTMENTS, INCLUDING OWNERSHIP OF SUBSIDIARY COMPANIES, AS OF MARCH 1, 1933, WHICH HAVE NOT BEEN TAKEN UP ON TRUSTEE'S BOOKS, NOR LIABILITIES AND CONTINGENT LIABILITIES OF THE CORPORATION PRIOR TO RECEIVERSHIP AND UNDISCHARGED AS OF NOVEMBER 30, 1936.

H. N. GREIS AS TRUSTEE
FOR DEEP ROCK OIL CORPORATION
INCOME STATEMENT
FOR FORTY-FIVE MONTHS' PERIOD ENDING NOVEMBER 30, 1936

| | GROSS EARNINGS | OPERATING EXPENSES: COST OF SALES | OPERATING EXPENSES: OPERATING | OPERATING EXPENSES: TOTAL | NET EARNINGS | GENERAL INTEREST | DRY HOLE AND ABANDONED WELL EXPENSE | CANCELLED AND SURRENDERED LEASES | LOSS ON SALE OR ABANDONMENT OF CAPITAL ASSETS | PROVISION FOR BAD DEBTS | TOTAL NET |
|---|---|---|---|---|---|---|---|---|---|---|---|
| EARNINGS DURING RECEIVERSHIP - MARCH 1, 1933, TO MAY 31, 1934 | $ 13 020 524 96 | $ 5 644 528 59 | $ 5 041 180 67 | $ 10 685 709 26 | $ 2 334 815 70 | $ 1 159 30 | $ 13 932 55 | $ 539 83 | $ - | $ 15 000 00 | $ 2 304 184 02 |
| JUNE 1934 | 962 975 12 | 514 446 52 | 367 262 17 | 881 708 69 | 81 266 43 | 55 00 | - | - | - | 1 000 00 | 80 211 43 |
| JULY | 928 659 55 | 478 009 02 | 401 026 56 | 879 035 58 | 49 623 97 | 54 00 | - | - | - | 6 000 00 | 43 569 97 |
| AUGUST | 1 026 548 25 | 586 576 32 | 363 426 52 | 949 966 84 | 76 551 41 | 53 00 | - | - | - | 5 000 00 | 71 518 41 |
| SEPTEMBER | 961 670 46 | 557 995 68 | 403 797 66 | 961 693 34 | 19 977 12 | 85 48 | - | - | - | 5 000 00 | 14 893 64 |
| OCTOBER | 1 031 978 69 | 618 568 86 | 387 947 29 | 1 006 456 15 | 25 522 54 | 115 17 | - | - | - | 5 000 00 | 20 407 37 |
| NOVEMBER | 1 019 737 26 | 583 533 07 | 354 614 62 | 938 147 69 | 81 589 57 | 30 00 | - | - | - | 5 000 00 | 76 559 57 |
| DECEMBER | 1 028 277 85 | 542 928 98 | 391 849 39 | 934 848 37 | 93 429 46 | 2 382 98 | 5 731 41 | 4 478 44 | - | 5 000 00 | 75 836 63 |
| JANUARY 1935 | 1 058 271 21 | 606 281 72 | 364 291 92 | 970 573 64 | 87 697 57 | 28 00 | 100 00 (4-A) | - | - | 5 000 00 | 82 769 57 |
| FEBRUARY | 969 277 77 | 524 033 33 | 331 066 59 | 855 099 92 | 114 177 85 | 27 00 | - | - | - | 5 000 00 | 109 150 85 |
| MARCH | 1 064 599 00 | 665 405 82 | 249 790 70 | 915 196 52 | 149 402 48 | 26 00 | - | - | 598 93 | 5 000 00 | 143 777 55 |
| APRIL | 1 204 000 98 | 626 814 50 | 370 818 77 | 997 633 27 | 206 367 71 | 25 00 | - | - | 228 86 | 5 000 00 | 201 113 85 |
| MAY | 1 228 717 67 | 644 736 49 | 398 241 45 | 1 042 977 84 | 185 739 83 | 124 00 | - | - | 257 07 | 5 000 00 | 180 458 76 |
| JUNE | 1 032 158 82 | 524 488 48 | 384 880 87 | 909 369 35 | 122 789 47 | 37 65 | - | - | 1 000 50 | 5 000 00 | 116 751 32 |
| JULY | 1 124 268 34 | 587 239 73 | 378 399 35 | 965 639 08 | 158 629 26 | - | - | - | 473 24 | 5 000 00 | 153 156 02 |
| AUGUST | 1 183 166 22 | 619 127 16 | 413 302 72 | 1 032 429 88 | 150 736 34 | - | - | - | 806 41 | 5 000 00 | 144 929 93 |
| SEPTEMBER | 1 146 037 41 | 586 712 13 | 386 520 76 | 966 232 89 | 179 804 52 | - | - | - | 10 00 | 5 000 00 | 174 794 52 |
| OCTOBER | 1 215 261 64 | 658 703 95 | 409 615 10 | 1 068 319 05 | 146 882 59 | - | - | - | 1 119 73 | 5 000 00 | 140 762 86 |
| NOVEMBER | 1 102 361 11 | 567 782 69 | 386 291 11 | 954 073 80 | 148 287 31 | - | - | - | 39 00 | 5 000 00 | 143 248 31 |
| DECEMBER | 1 031 473 80 | 493 147 31 | 392 666 49 | 885 813 80 | 145 660 00 | - | 38 877 84 | 10 764 86 | 651 70 | 5 000 00 | 90 365 60 |
| JANUARY 1936 | 1 145 118 55 | 466 036 00 | 406 476 11 | 872 512 11 | 288 606 44 | - | - | - | 27 11 | 5 000 00 | 277 579 33 |
| FEBRUARY | 1 028 695 70 | 595 483 58 | 335 541 54 | 932 125 12 | 96 570 58 | 42 27 | - | - | 7 00 | 5 000 00 | 91 521 31 |
| MARCH | 1 131 906 18 | 585 135 42 | 369 796 68 | 662 931 50 | 178 974 68 | - | - | - | 627 85 | 5 000 00 | 173 346 83 |
| APRIL | 1 342 617 39 | 720 285 83 | 394 065 07 | 1 114 350 90 | 228 278 49 | - | - | - | 274 27 | 5 000 00 | 223 004 22 |
| MAY | 1 395 814 28 | 721 678 54 | 409 485 82 | 1 131 164 36 | 262 649 92 | - | - | - | 22 49 | 5 000 00 | 257 627 43 |
| JUNE | 1 351 236 17 | 745 966 50 | 416 879 23 | 1 162 845 73 | 188 390 44 | - | - | - | 186 06 | 5 000 00 | 183 576 38 |
| JULY | 1 365 466 96 | 808 644 13 | 395 691 73 | 1 204 335 86 | 161 121 10 | - | - | - | 1 328 67 | 5 000 00 | 154 792 43 |
| AUGUST | 1 384 590 99 | 780 085 24 | 410 166 68 | 1 190 249 92 | 194 341 07 | - | - | - | 75 90 | 5 000 00 | 189 265 17 |
| SEPTEMBER | 1 280 245 26 | 723 770 50 | 396 985 38 | 1 120 755 88 | 159 489 38 | - | - | - | 887 93 | 5 000 00 | 153 601 45 |
| OCTOBER | 1 304 389 94 | 794 606 88 | 357 384 67 | 1 151 991 55 | 152 398 39 | 3 78 | - | - | 69 55 | 5 000 00 | 147 245 86 |
| NOVEMBER | 1 213 127 09 | 786 826 31 | 326 158 48 | 1 093 984 79 | 119 142 30 | 429 02 | 32 689 51 | - | 1 040 69 | 5 000 00 | 79 983 08 |
| | $ 47 310 424 60 | $24 215 499 18 | $16 512 691 50 | $ 40 728 190 68 | $ 6 582 233 92 | $ 4 515 65 | $ 91 131 31 | $ 15 783 13 | $ 9 360 58 | $ 162 000 00 | $ 6 299 443 25 |

The above earnings are before provision for rentals of properties of Deep Rock Oil and Refining Company, Federal and State income taxes, interest charges (excepting interest paid by the Receivers and Trustee), depreciation and depletion, amortization of debt discount and expense, oil and gas lease rentals and are before charges for amortization of non-productive leaseholds and property abandonments (other than non-productive leaseholds and property acquired since March 1, 1933, and subsequently surrendered, sold, or abandoned).

H. N. Greis as Trustee for Deep Rock Oil Corporation.

Statement of Departmental Net Earnings.

| Department | Forty-four Months Ending October 31, 1936 | November, 1936 | Total Forty-five Months |
|---|---|---|---|
| Producing | $4,153,820.97 | $110,620.86 | $4,264,441.83 |
| Land and Geological | *73,287.43* | *4,783.80* | *78,071.23* |
| Bradstreet Properties | *39,358.28* | *1,396.54* | *40,754.82* |
| Pipe Line | 759,844.12 | 17,081.55 | 776,925.67 |
| Gasoline | *4,245.39* | *522.55* | *4,767.94* |
| Traffic | 532,784.83 | 13,703.98 | 546,488.81 |
| Refinery | 1,756,435.07 | *9,632.42* | 1,746,802.65 |
| Pressure Stills | 99,788.39 | 4,574.18 | 104,362.57 |
| Distributing | *539,366.71* | *12,418.60* | *551,785.31* |
| General Office | *183,323.95* | 1,915.64 | *181,408.31* |
| Total | $6,463,091.62 | $119,142.30 | $6,582,233.92 |

Figures in italic appear in red in original.

Above earnings are before provision for rentals of properties of Deep Rock Oil and Refining Company, Federal and State income taxes, interest charges, depreciation and depletion, amortization of non-productive leaseholds, and amortization of debt discount and expense, cost of dry holes drilled, property abandonments, oil and gas lease rentals, and bad debts.

---

H. N. Greis as Trustee for Deep Rock Oil Corporation.

Reconciliation of Earnings and Cash for Forty-five Months' Period Ending November 30, 1936.

| | | |
|---|---|---|
| Income from Operations | $47,310,424.60 | |
| Merchandise Purchased, Taxes, Operating Expenses, Etc. | 40,728,190.68 | |
| Net Operating Earnings | | $6,582,233.92 |
| Less: | | |
| General Interest | 4,515.65 | |
| Dry Hole and Abandoned Well Expense | 91,131.31 | |
| Cancelled and Surrendered Leases | 15,783.13 | |
| Loss on Sale or Abandonment of Capital Assets | 9,360.58 | |
| Provision for Bad Debts | 162,000.00 | 282,790.67 |
| | | $6,299,443.25 |

Add:

| | | |
|---|---|---|
| Increase in Trustee Obligations: | | |
| Accounts Payable ..... | 1,013,325.84 | |
| Taxes Accrued ..... | 83,952.02 | |
| Due Deep Rock Oil and Refining Company ..... | 70,197.72 | |
| Increase in Other Reserves. | 103,600.63 | |
| Net Increase in Equity by Reason of Liquidation of Deep Rock Petroleum Company (Difference Between Open Account Due and Appraisal Value of Assets Acquired or Value of Stock Ownership Not Taken Up in Assets of March 1, 1933) ..... | 17,917.76 | |
| Assets Acquired as Result of Liquidation of Deep Rock Oil Company ..... | 69,021.77 | |
| Cash Received from Sale of Arkansas Properties..... | 25,000.00 | |
| Proceeds from Sales of Property, Receipts from Investments and Accounts Not Taken Up on Books March 1, 1933, and Miscellaneous Adjustments Affecting Business Prior to March 1, 1933..... | 1,268,930.22 | 2,651,945.96 |
| | | $8,951,389.21 |

| | | | |
|---|---|---|---|
| Less: | | | |
| Additions to Plant and Property Account | | 2,601,471.20 | |
| Dispensing Equipment Purchased | | 6,150.16 | |
| Purchase of Securities | | 30,613.96 | |
| Increase in Notes and Accounts Receivable | | 166,227.74 | |
| Increase in Inventories | | 984,347.80 | |
| Federal Income Tax Refunds Receivable | | 76,484.26 | |
| Cash Deposited in Escrow | | 257,500.00 | |
| Other Special Funds | | 7,077.67 | |
| Increase in Amount Due from Subsidiary Companies | | 31,565.67 | |
| Increase in Advances, Prepaid Accounts, Miscellaneous Deposits and Unadjusted Items | | 11,369.21 | |
| Claims Paid for Corporation | $724,772.11 | | |
| Home Oil Company, Debenture Bonds Redeemed | 715.58 | 725,487.69 | 4,898,295.36 |
| | | | $4,053,093.85 |

H. N. Greis as Trustee for Deep Rock Oil Corporation.

Analysis of Plant and Property Account for Forty-five Months' Period Ending November 30, 1936.

| | | |
|---|---|---|
| Producing Department: | | |
| Fee Lands and Real Estate | $ 24.55 | |
| Residences | 1,133.97 | |
| Bonus Rentals and Oil Leases | 798,512.13 | |
| Equipment on Leases | 318,296.46 | |
| Autos and Trucks | 36,363.78 | |
| General Construction | 120,254.53 | |
| Telephone System | *624.06* | |
| Office Furniture | 209.71 | |
| Drilling | 561,892.27 | |
| Warehouses | 849.86 | |
| Property Acquired Through the Liquidation of Deep Rock Oil Company, (Subsidiary) | 70,769.36 | $1,907,682.56 |

| | | |
|---|---|---|
| Pipe Line Department: | | |
| Miscellaneous Improvements | | 86,907.81 |
| General Office: | | |
| Furniture and Fixtures | | 4,673.92 |
| Gasoline Department: | | |
| Miscellaneous Improvements | | 5,437.73 |
| Refinery Department: | | |
| Miscellaneous Improvements | | 147,862.14 |
| Distributing Department: | | |
| Miscellaneous Improvements | $381,035.54 | |
| Property Acquired Through Liquidation of Deep Rock Petroleum Company (Subsidiary) | 67,871.50 | 448,907.04 |
| | | $2,601,471.20 |

Figures in italic appear in red in original.

H. N. Greis as Trustee for Deep Rock Oil Corporation.

Analysis of Securities Owned as of November 30, 1936.

| | Par Value | Cost |
|---|---|---|
| Shaffer Oil and Refining Company: | | |
| 6% Convertible Gold Notes, 1933 | $23,500.00 | $20,575.75 |
| First Trust Company, Lincoln, Nebraska: | | |
| Mortgage Participating Certificates | 500.00 | 353.58 |
| Deep Rock Oil Company of Wisconsin: | | |
| Profit Participating Certificates | 15,034.44 | 7,650.61 |
| High Test Oil Company: | | |
| 1,000 Shares Common Stock | No Par | 1,000.00 |
| Southern Illinois Service Stations Company: | | |
| Certificates of Indebtedness | ..... | 1,033.02 |
| Pennsylvania Consumers Oil Company: | | |
| 1,747 Shares Preferred Stock | ..... | 1.00 |
| | | $30,613.96 |

H. N. Greis as Trustee for Deep Rock Oil Corporation.

Analysis of Equity Account for Forty-five Months' Period Ending November 30, 1936.

| | | |
|---|---|---|
| Accounts Transferred from Corporation Books —March 1, 1933 | | $ 3,218,895.87 |
| Add: | | |
| Operating Earnings for Forty-five Months Ending November 30, 1936 | $6,299,443.25 | |
| Net Increase in Equity by Reason of Liquidation of Deep Rock Petroleum Company (Difference Between Open Account Due and Appraisal Value of Assets Acquired or Value of Stock Ownership Not Taken Up in Assets March 1, 1933) | 17,917.76 | |
| Assets Acquired as Result of Liquidation of Deep Rock Oil Company | 69,021.77 | |
| Cash Received from Sale of Arkansas Properties | 25,000.00 | |
| Proceeds from Sales of Property, Receipts from Investments and Accounts Not Taken Up on Books March 1, 1933, and Miscellaneous Adjustments Affecting Business Prior to March 1, 1933. | 1,268,930.22 | 7,680,313.00 |
| | | 10,899,208.87 |
| Less: | | |
| Claims Paid for Corporation.. | 724,772.11 | |
| Home Oil Company — Debenture Bonds Redeemed | 715.58 | 725,487.69 |
| Equity November 30, 1936 | | $10,173,721.18 |

State of Illinois, County of Cook, ss:

August J. Hurt, being by me first duly sworn on oath deposes and says that he is an adult and resides at 2700 S. Clarence Avenue, Berwyn, Illinois; that he is now and has been for many years past employed by The First National Bank of Chicago or its predecessor, First Union Trust and Savings Bank, formerly known as First Trust and Savings Bank, in the Corporate Trust Division of the Trust Department; that he is familiar with the records of said bank having to do with the deposit under a Deposit Agreement and Plan of Reorganization dated August 9, 1934, as amended, between John J. Shinners, Newton P. Frye, and others, of Convertible Gold Notes dated March 1, 1928, and $7 Cumulative Convertible Preferred Stock of Deep Rock Oil Corporation, formerly Shaffer Oil and Refining Company; that he is the duly authorized agent of said Bank for the purposes of this affidavit; that there were on deposit with said Bank at the close of business December 21, 1936, $3,948,000 principal amount of said Convertible Gold Notes and 19,647 shares of said Cumulative Preferred Stock; that from December 22, 1936, to January 11, 1937, both dates inclusive, there were withdrawn from deposit $12,000 principal amount of said Convertible Gold Notes and 808 shares of said Cumulative Preferred Stock; that from December 22, 1936, to January 11, 1937, both dates inclusive, there were deposited $69,000 principal amount of said Convertible Gold Notes and 298 shares of said Cumulative Preferred Stock; that at the close of business on January 11, 1937, there were on deposit with said Bank. $4,005,000 principal amount of said Convertible Gold Notes and 19,137 shares of said Cumulative Preferred Stock.

Further affiant sayeth not.

AUGUST J. HURT.

Subscribed and sworn to before me, a Notary Public in and for the County of Cook and State of Illinois, this 12th day of January, 1937. R. V. Hunter, Notary Public. My Commission expires Nov. 24, 1940. (Seal).

Endorsed: Filed Jan. 15, 1937. H. P. Warfield, Clerk U. S. District Court.

State of New York, County of New York, ss.

O. D. Settle, being duly sworn, deposes and says:

1. He is an Assistant Trust Officer of The Chase National Bank of the City of New York, which is a sub-depositary acting under a certain Deposit Agreement executed by the Reorganization Committee under date of August 9, 1934 as amended November 10, 1936 in connection with the acceptance of the Amended Plan of Reorganization for Deep Rock Oil Corporation filed in the United States District Court for the Northern District of Oklahoma pursuant to an order of said court dated November 9, 1936, as modified pursuant to an order of said court dated December 22, 1936, and has had general supervision over the activities of The Chase National Bank of the City of New York as such sub-depositary. Affiant has personal knowledge of the facts herein stated and is duly authorized by The Chase National Bank of the City of New York as sub-depositary to make this affidavit on its behalf.

2. The aggregate amounts of 6% Convertible Gold Notes due March 1, 1933 (unextended), 7% Convertible Gold Notes due March 1, 1937 (extended) and $7.00 Cumulative Convertible Preferred Stock of Deep Rock Oil Corporation (formerly named Shaffer Oil and Refining Company) on deposit with said sub-depositary at the close of business on December 22, 1936, were as follows:

| | |
|---|---|
| 6% Convertible Gold Notes due March 1, 1933 (unextended) | $ 901,500. principal amount |
| 7% Convertible Gold Notes due March 1, 1937 (extended) | 3,002,500. principal amount |
| $7. Cumulative Convertible Preferred Stock | 9,972 shares |

3. The aggregate amounts of said Notes and Preferred Stock on deposit with said sub-depositary at the close of business on December 22, 1936 and which were subsequently withdrawn in accordance with the provisions of said order of December 22, 1936, are as follows:

| | | | |
|---|---|---|---|
| 6% Convertible Gold Notes due March 1, 1933 (unextended) | $ | -0- | principal amount |
| 7% Convertible Gold Notes due March 1, 1937 (extended) | | -0- | principal amount |
| $7. Cumulative Convertible Preferred Stock | | 325 | shares |

4. The aggregate amounts of said Notes and Preferred Stock which were deposited with said sub-depositary between the close of business on December 22, 1936 and the close of business on January 11, 1937, were as follows:

| | | | |
|---|---|---|---|
| 6% Convertible Gold Notes due March 1, 1933 (unextended) | $ | 13,000. | principal amount |
| 7% Convertible Gold Notes due March 1, 1937 (extended) | | 22,000. | principal amount |
| $7. Cumulative Convertible Preferred Stock | | 218 | shares |

5. The aggregate amounts of said Notes and Preferred Stock on deposit with said sub-depositary at the close of business on January 11, 1937 were as follows:

| | | | |
|---|---|---|---|
| 6% Convertible Gold Notes due March 1, 1933 (unextended) | $ | 914,500. | principal amount |
| 7% Convertible Gold Notes due March 1, 1937 (extended) | | 3,024,500. | principal amount |
| $7. Cumulative Convertible Preferred Stock | | 9,865 | shares |

O. D. SETTLE.

Subscribed and sworn to before me this 11th day of January, 1937. Frank R. Hall, Notary Public, New York County. Certificates filed in New York County Clerks No. 525, Register's No. 7-H-675, Bronx County Clerk's No. 72, Register's No. 199-H-37, Westchester County. Commission expires March 30, 1937. (Seal)

Endorsed: Filed Jan. 15, 1937. H. P. Warfield, Clerk, U. S. District Court.

(Executed in Quadruplicate)

No. 144.

Petition of Standard Gas and Electric Company Re Jurisdiction of Court Over New Company.

Now comes Standard Gas and Electric Company, a corporation organized and existing under and by virtue of the laws of the State of Delaware, being a debtor in proceedings pending before the United States District Court for the District of Delaware, entitled "In the Matter of Standard Gas and Electric Company, No. 1204," and alleges as follows:

1. On November 9, 1936 the undersigned Standard Gas and Electric Company filed herein its written offer to compromise its claim against Deep Rock Oil Corporation, debtor herein, upon the terms and conditions therein set forth.

2. The said offer of compromise dated November 7, 1936 was made upon the express condition that a plan of reorganization for Deep Rock Oil Corporation acceptable to Standard Gas and Electric Company shall finally be confirmed by this court on or before February 8, 1937, and that such order of confirmation shall be affirmed on review, if an appeal be taken therefrom.

3. That this court, on December 22, 1936, entered its order approving and directing the acceptance of the said offer of compromise made by the undersigned Standard Gas and Electric Company, as aforesaid, in accordance with the terms and subject to the conditions thereof.

4. This court, on December 22, 1936, also entered its conditional order confirming a certain amended plan of reorganization filed herein by Deep Rock Oil Corporation, debtor, on November 9, 1936, as modified pursuant to the terms of the said conditional order of confirmation entered December 22, 1936.

5. Pursuant to the terms of a certain order entered by the United States District Court for the District of Delaware, on November 2, 1936, the undersigned Standard Gas and Electric Company was directed and authorized to accept the amended plan of reorganization filed herein by the debtor, Deep Rock Oil Corporation, on November 9, 1936.

6. That this court, by said conditional order of confirmation entered herein on December 22, 1936, approved and con-

firmed the said amended plan of reorganization, as modified by said order, subject, among other things, to the acceptance of said amended plan of reorganization as thus modified, by the undersigned Standard Gas and Electric Company before February 8, 1937, pursuant to authority from the District Court of the United States for the District of Delaware.

7. That among the modifications to said amended plan of reorganization filed herein on November 9, 1936, made at the confirmation hearing with the approval of the court, under the terms of said conditional order of confirmation entered December 22, 1936, as aforesaid, it was provided that the plan should contain an additional provision that this court reserves the right to change the period of time during which the court shall retain jurisdiction of the affairs of the new company, as provided for in said plan.

8. The undersigned Standard Gas and Electric Company has been advised by the reorganization committee, parties intervener herein, that following the close of business on January 11, 1937 there remains on deposit with said committee $7,944,000 principal amount of notes of Deep Rock Oil Corporation, debtor herein, and 29,002 shares of preferred stock of said Deep Rock Oil Corporation. The amended plan of reorganization, as filed herein by the debtor November 9, 1936, and as modified by the order of this court entered December 22, 1936, has therefore been accepted under the provisions of Section 77b of the Bankruptcy Act of the United States, as amended, by the requisite percentage of the holders of the notes of Deep Rock Oil Corporation and the holders of preferred stock of said corporation, and that the requisite percentages of such noteholders and preferred stockholders have therefore approved the modifications made under the order of December 22, 1936 pursuant to which this court has the right to change the period of time during which it shall retain jurisdiction of the affairs of the New Company.

9. The amended plan of reorganization filed herein by the Debtor on November 9, 1936 provided that this court should retain jurisdiction over the New Company until the principal amount of income debentures to be issued pursuant to said plan in the aggregate amount of $10,000,000 should be reduced to $5,000,000; that the plan, as modified and as accepted by the holders of notes and preferred stock of Deep Rock Oil Corporation, debtor herein, permits this court to

change, within its discretion, the period of time during which it shall retain jurisdiction of the affairs of the New Company.

10. That upon the entry of the conditional order of confirmation on December 22, 1936, at the request of counsel for the Independent Committee for the Protection of the Rights of the Preferred Stockholders, known as the Taylor Committee, this court stated that it would subsequently make specific and definite the period of time during which it would retain jurisdiction over the affairs of the New Company provided for in said plan of reorganization.

11. That the undersigned Standard Gas and Electric Company alleges and charges that it is important and desirable for it to proceed forthwith and prior to the hearing which this court has directed to be held on February 3, 1937, to seek the approval of the United States District Court for the District of Delaware to the acceptance by Standard Gas and Electric Company of the said amended plan of reorganization, as modified by the conditional order of confirmation entered December 22, 1936.

12. That the undersigned Standard Gas and Electric Company, in connection with the procurement of such order from the United States District Court for the District of Delaware, will be required to remove and satisfy any objections which may be raised by various committees representing the creditors and stockholders of Standard Gas and Electric Company to the modifications directed by this court to be made in the amended plan of reorganization, and it is highly desirable and important for Standard Gas and Electric Company to be enabled by this court to submit to its own creditors and stockholders, or their representatives, parties to the said 77b reorganization proceedings pending in Delaware, the modifications made by the order of December 22, 1936 to the amended plan of reorganization of Deep Rock Oil Corporation in specific and definite terms.

Wherefore, the undersigned Standard Gas and Electric Company respectfully requests this court to exercise at this time the discretionary right reserved to it under the said modifications made in the order of December 22, 1936, and fix and define the terms and conditions under which this court shall retain jurisdiction over the new company which shall emerge

from the reorganization proceedings of Deep Rock Oil Corporation, debtor herein.

And the undersigned asks for such other, further or different relief as to this court may seem meet in the premises.

STANDARD GAS AND ELECTRIC COMPANY,
By A. S. CUMMINS (Sgd)
Vice President.

State of Illinois, County of Cook, ss.

Be It Remembered, that on this 12th day of January, A. D. 1937, personally came before me, the undersigned, a Notary Public, for the State and County aforesaid, A. S. Cummins, who being by me duly sworn according to law, deposes and says: That he is Vice President of Standard Gas and Electric Company, the Debtor above named; that he has read the foregoing petition and is familiar with the contents thereof; and that the same is true to the best of his knowledge, information and belief.

A. S. CUMMINS (Sgd.)

Sworn to and subscribed before me the day and year aforesaid. C. M. Mader (Sgd), Notary Public in and for the County of Cook, State of Illinois. (Seal) My commission expires May 10, 1937.

Endorsed: Filed January 18, 1937. H. P. Warfield, Clerk, U. S. District Court.

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Order No. 144.

This Cause coming on to be heard upon the petition of Standard Gas and Electric Company, filed herein on 18th Jan., 1937, seeking the order of this court fixing and defining the terms, conditions and period of retention of jurisdiction by this court over the affairs of the new company, as provided in the amended plan of reorganization for Deep Rock Oil Corporation as modified by the order of this court entered December 22, 1936, and notice having been served on all parties of record herein, and the court having fully considered the said petition of Standard Gas and Electric Company and the arguments of counsel, and being fully advised in the premises, Does Hereby Find:

1. That the amended plan of reorganization filed herein by the debtor on November 9, 1936, provided, "The court shall retain jurisdiction of the new company's affairs until the outstanding principal amount of income debentures has been reduced to $5,000,000."

2. That the conditional order entered by this court on December 22, 1936, confirming said amended plan of reorganization, directed that certain modifications should be made thereto, including the following:

"An additional provision should be included that the court reserves the right to change the period of time during which the court retains jurisdiction of the affairs of the new company."

3. That the amended plan of reorganization filed herein on November 9, 1936, as modified by the order of this court entered December 22, 1936, has been accepted in accordance with the terms of said order by the holders of $7,944,000.00 principal amount of the outstanding notes of Deep Rock Oil Corporation, debtor, and by the holders of 29,002 shares of preferred stock of said debtor, and that, therefore, the holders of more than 66⅔% of the notes, and the holders of more than a majority of the shares of preferred stock of the debtor have thereby accepted and assented to the plan, as modified, which provides that the court shall retain jurisdiction until the outstanding income debentures have been reduced to $5,000,000, unless the period of time during which the court shall retain jurisdiction of the affairs of the new company is changed by the court.

4. That it is reasonable and proper that this court, in response to the said petition of Standard Gas and Electric Company, should now change and make permanent and definite the period of time and the provisions dealing with the retention by this court of jurisdiction over the affairs of the new company, to the end that such definite terms and conditions may be presented by Standard Gas and Electric Company to the United States District Court for the District of Delaware, which court may thereby be advised in considering whether or not to authorize and direct Standard Gas and Electric Company, which is a debtor within its jurisdiction under Section 77b of the Bankruptcy Act of the United States, to accept and assent to the amended plan of reorganization of Deep Rock Oil Corporation, as modified by the order of December 22, 1936.

5. The court finds that John M. Taylor and William H. Taylor, Interveners herein, and the Independent Committee for the Protection of the Rights of Preferred Stockholders, composed of John M. Taylor, Oscar A. Kennedy and T. E. Webster, have heretofore been notified of the application for the change herein provided for, and have appeared through their counsel, Travis Milsten, in open court, at the presentation of the petition herein, and have objected to the proposed change; and upon the hearing of the application the undersigned Judge finds, and is of the opinion, that the change herein ordered will not be materially adverse to the interest of any creditor or stockholder of the debtor, and that therefore no other notice to any creditor or stockholder of the hearing of the application for the change herein provided for, is necessary.

It Is, Therefore, Ordered, Adjudged and Decreed:

1. That the court does hereby finally and conclusively exercise its reserved right and power to change the period during which it shall retain jurisdiction of the affairs of the new company, as prescribed under the amended plan of reorganization of Deep Rock Oil Corporation filed herein November 9, 1936.

2. That this court hereby changes and amends the first full paragraph on Page 56 of the Amended Plan of Reorganization filed herein by the Debtor on November 9, 1936, to read as follows: "The court shall retain jurisdiction of the new company's affairs for a period of time at least five (5) years after the date of the income debentures to be issued by the new company, or for a longer period of time after the expiration of such five-year period and until the outstanding principal amount of income debentures has been reduced to $5,000,000, unless the court shall determine sooner to relinquish its jurisdiction after the principal amount of said income debentures shall have been reduced to $5,000,000; provided, however, that if all of the outstanding income debentures of the new company are retired, by a refunding operation or otherwise, prior to the expiration of said five-year period, the jurisdiction of the court over the affairs of the new company shall thereupon be finally terminated."

3. The court hereby declares that the entry of this order exhausts the power which the court reserved in the order of December 22, 1936, in the modification made in the Plan quoted

above in paragraph 2 of the findings of this order. And the court further orders and declares that upon the entry of this order the court reserves no right, except as hereinabove provided, hereafter to change the period of time during which the court retains jurisdiction of the affairs of the new company.

Enter:

F. E. KENNAMER, Judge.

Dated January 18, 1937.

Endorsed: Filed Jan. 18, 1937. H. P. Warfield, Clerk, U. S. District Court.

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Order.

On this 20th day of January, 1937, comes Mr. Jason L. Honigman, through his local counsel, Mr. Travis I. Milsten and Mr. James D. Johnston, and applies to the court for an order allowing an appeal of the Independent Committee for the Protection of Preferred Stockholders from the order entered December 22, 1936, in said cause, and the court after hearing the arguments of counsel, Mr. N. A. Gibson being present representing the Standard Gas & Electric Company, Mr. Harry Campbell representing the Reorganization Committee, and Mr. Villard Martin representing the Trustee in Bankruptcy, the court declines to enter an order allowing an appeal for the reason the court is clearly of the opinion that the order entered as of December 22, 1936, in reference to the plan of reorganization and the offer of compromise of the claim of Standard Gas & Electric Company is an interlocutory order, and by said order the court had no intention of adjudicating the Standard Gas & Electric Company's claim, but said order was only a conditional order, that if the plan of reorganization as offered and finally amended, as suggested by the court, was approved and confirmed on February 3, 1937, the date to which said hearing was continued, that the Standard Gas & Electric Company's claim would be compromised in accordance with the offer of compromise presented by the Standard Gas & Electric Company to take stock in the reorganized company in compromise of its claim.

It was the order of the court entered on December 22, 1936, that in the event said plan of reorganization was not finally approved and confirmed, that the Standard Gas & Electric

Company's claim against the debtor corporation would stand for hearing at some future date upon its merits and for final determination. The order of December 22, 1936, was only intended to be a conditional order, and was to be of no force and effect unless a final plan was approved and agreed upon as of February 3, 1937, and should said plan of reorganization be finally approved February 3, 1937, the order will become effective as of that date, and the time to appeal from such order would begin to run from the date of its entry on February 3, 1937.

For the reasons herein stated the petition of the Independent Committee for the Protection of holders of Preferred Stock of the Deep Rock Oil Corporation to appeal from the order entered herein by this court on December 22, 1936, entitled

"Order Approving Compromise of Claim of Standard Gas & Electric Company in Accordance with Offer made by Standard Gas & Electric Company, Dated November 7, 1936, and Adjudicated and Allowing said Claim Under the Terms and Subject to the Conditions of said Offer of Compromise"

is hereby denied, and exceptions allowed.

F. E. KENNAMER, Judge.

Endorsed: Filed Jan. 21, 1937. H. P. Warfield, Clerk. U. S. District Court.

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Objections of Independent Committee for the Protection of Holders of Preferred Stock to Amendments to Plan of Reorganization as Set Forth in Order of December 22, 1936.

To the District Court of the United States for the Northern District of Oklahoma:

Now come John M. Taylor, Oscar A. Kennedy and T. E. Webster as the Independent Committee for the protection of the holders of preferred stock of the Deep Rock Oil Corporation and herewith state their objections to those certain amendments to the amended Plan of Reorganization of Debtor corporation, as contained in that certain order confirming said plan of Reorganization entered on December 22, 1936, by the Honorable Franklin E. Kennamer, District Judge. These objections are filed in behalf of the holders of Preferred Stock who have executed powers of attorney to this Committee

as appears from the petition for intervention filed by this Committee, as well as all other powers of attorney thereafter given to your petitioners as disclosed by certificates on file in the above cause, reference to which petition for intervention and certificates is hereby prayed as fully as if set forth in full herein, and said objections are further filed in behalf of the holders of Preferred Stock of the Debtor corporation as a class. At the time of the filing of these objections, your petitioners have powers of attorney and are representatives of 9,044 shares of Preferred Stock out of the total of 49,000 shares in the hands of the public. The objections to said amendments are as follows:

I.

Petitioners herein hereby make reference to objections heretofore filed by them entitled: "Objections of Independent Committee to the Amended Plan of Reorganization of Debtor Corporation" to be deemed a part hereof by reference as fully as if set forth in full herein.

II.

Said amendments contained in said order of December 22, 1936, are further derogatory of the rights and interests of the holders of Preferred Stock of Debtor corporation and their equity was further reduced by provision for payment of an additional $600,000.00 in cash to the note holders without substitution of any fair equivalent therefor to the holders of Preferred Stock.

III.

Said subdivision (L) of Article X of said order extends the jurisdiction of the court over the affairs of the Debtor corporation subsequent to reorganization for an indefinite period of time, contrary to the legal rights of the court and the best interests of the Debtor corporation.

IV.

That, by the terms of Article [illegible] II of said order, H. N. Greis, is appointed President of the Debtor corporation, which is an act that is beyond the power of the court and is contrary to the best interests of the Debtor corporation.

V.

That the court had no jurisdiction by the terms of said order to finally confirm and approve said amended plan of reorgani-

zation prior to acceptance of the material changes contained therein by the Security Holders of the Debtor corporation.

Wherefore, petitioners pray that said amended plan of reorganization as amended by the terms of said order of December 22, 1936, be rejected.

Dated this 19th day of January, 1937.

JOHN M. TAYLOR,
OSCAR A. KENNEDY,
T. E. WEBSTER,
By H. RUSSELL HASTINGS,
Secretary, Petitioners.

State of Michigan, County of Wayne, ss.

On this 19th day of January, 1937, before me, a Notary Public in and for said County, personally appeared H. Russell Hastings, to me known to be the person who executed the foregoing instrument and who acknowledged to me that he was duly authorized to execute said instrument in behalf of said petitioners, and that the allegations set forth in said petition are true to the best of his knowledge, information and belief.

EVELYN G. SMITH (Signed)
Notary Public, Wayne County, Michigan.
My commission expires March 17, 1940.

SEMPLINER, DEWEY, STANTON
& HONIGMAN,
By JASON L. HONIGMAN (Signed),
2003-12 Dime Bank Building, Detroit,
Michigan.

MILSTEN AND MILSTEN,
Tulsa Loan Building, Tulsa, Okla.
Attorneys for Petitioners.

Endorsed: Filed Jan. 21, 1937. H. P. Warfield, Clerk, U. S. District Court.

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Supplemental Objections of the Independent Committee for the Protection of Holders of Preferred Stock to Amendments to Plan of Reorganization as Set Forth in Order of December 22, 1936.

To the United States District Court for the Northern District of Oklahoma:

Now come John M. Taylor, Oscar A. Kennedy and H. Russell Hastings, as the Independent Committee for the Protection of the Holders of Preferred Stock of the Deep Rock Oil Corporation, and herewith submit certain additional objections to the Amended Plan of Reorganization of the Debtor Corporation, based upon facts which have come to the attention of your petitioners since the filing of the last objections. These objections are filed in behalf of the holders of preferred stock who have executed powers of attorney to this Committee, as appears from the files and records in the above cause, and in behalf of the holders of preferred stock of the Debtor Corporation as a class. At the time of the filing of these objections, your petitioners have powers of attorney and are representatives of 10,295 shares of preferred stock out of a total of 50,000 shares outstanding. For supplemental objections, your petitioners show unto this Honorable Court, as follows:

1. That said Amended Plan of Reorganization has not been accepted by a majority of the holders of the preferred stock of the Debtor Corporation, inasmuch as, of the total of approximately 29,000 shares of preferred stock represented by the present Reorganization Committee, who have voted in favor of said Amended Plan of Reorganization, 989 shares are owned by Standard Gas and Electric Company and 6,000 shares are owned by Utility and Industrial Corporation, a Delaware corporation, under the management and control of H. M. Byllesby & Company. That said 6,989 shares cannot legally be voted in favor of said Amended Plan of Reorganization and the compromise of the Standard Gas and Electric Company claim, because such voting is tantamount to a vote by Standard Gas and Electric Company and Byllesby & Company to give to Standard Gas and Electric Company seventy-three per cent of the common stock of the Debtor Corporation. That the personal interest of H. M. Byllesby and Standard Gas and Electric Company being involved, they have no right to vote on such question. That, by withdrawing the vote in favor of said Amended Plan on the part of said 6,989 shares, the said Amended Plan is lacking of approval by a majority of the holders of the preferred stock of the debtor corporation

2. That said Amended Plan of Reorganization was not accepted in good faith inasmuch as the interests which accepted said Amended Plan and without whom a majority of acceptances is lacking are prompted by reasons not applicable to

those members of the public holding preferred stock of the Debtor Corporation.

3. That neither the offer of said Amended Plan of Reorganization nor its acceptance are in good faith and have been made and procured by unfair means contrary to the provisions of *Section 77b of the United States Bankruptcy Act.* That said offer and acceptance of said plan were guided by the private interests of and benefits for Standard Gas and Electric Company and H. M. Byllesby & Company, without regard to the true rights of the holders of preferred stock of the Debtor Corporation.

Wherefore, petitioners pray that said Amended Plan of Reorganization as amended by the terms of the order of December 22, 1936, and subsequent orders be rejected.

Dated this 1st day of February, 1937.

JOHN M. TAYLOR,
OSCAR A. KENNEDY,
H. RUSSELL HASTINGS,
By H. RUSSELL HASTINGS (Signed)
Secretary, Petitioners.

State of Michigan, County of Wayne, ss.

On this 1st day of February, 1937, before me, a Notary Public in and for said County, personally appeared H. Russell Hastings, to me known to be the person who executed the foregoing instrument and who acknowledged before me that he was duly authorized to execute said instrument in behalf of said petitioners, and that the allegations set forth in said petition are true to the best of his knowledge, information and belief.

EVELYN G. SMITH (Signed)
Notary Public, Wayne County, Michigan.
My commission expires March 17, 1940.

SEMPLINER, DEWEY, STANTON
& HONIGMAN,
2003-12 Dime Bank Building, Detroit,
Michigan.
MILSTEN AND MILSTEN,
Tulsa Loan Building, Tulsa, Okla.
Attorneys for Petitioners.

Endorsed: Filed Feb. 3, 1937. H. P. Warfield, Clerk, U. S. District Court.

Acceptance by Standard Gas and Electric Company of Amended Plan of Reorganization, as Modified, of Deep Rock Oil Corporation.

Now comes Standard Gas and Electric Company, a corporation, pursuant to the authority and direction of the District Court of the United States for the District of Delaware, by order entered on January 27, 1937, in proceedings entitled "In the Matter of Standard Gas and Electric Company, Debtor, in proceedings for reorganization under Section 77b of the Bankruptcy Act, as amended, No. 1204," a certified copy of which order is attached hereto and marked Exhibit A and pursuant to authority contained in a resolution of the Board of Directors of said Standard Gas and Electric Company adopted at a meeting held on January 21, 1937, a certified copy of said resolution being attached hereto marked Exhibit B, as the owner of the claim against Deep Rock Oil Corporation allowed in these proceedings by order of this court entered on December 22, 1936, and as the owner of 579,132 shares of Common Stock without par value and of 969 shares of $7.00 Cumulative Preferred Stock without par value of said Deep Rock Oil Corporation, and accepts the Amended Plan of Reorganization, as modified, of Deep Rock Oil Corporation.

Standard Gas and Electric Company represents unto this court that it has duly endorsed and delivered to H. N. Greis, as Trustee for Deep Rock Oil Corporation, the entire issued and outstanding capital stock of Deep Rock Oil and Refining Company, consisting of 9,000 shares, and has caused R. J. Graf, Trustees, to execute, acknowledge and deliver a deed conveying to H. N. Greis, as Trustee for Deep Rock Oil Corporation, the land covered by the Deed from Deep Rock Oil Corporation to said R. J. Graf, Trustee, dated December 6, 1922, together with the improvements located thereon.

Dated at Chicago, Illinois, this 1st day of February, A. D. 1937.

STANDARD GAS AND ELECTRIC COMPANY,
(Sgd) By M. A. MORRISON,
Vice President.

(Seal)

Attest: P. A. Lehmkuhl, (Sgd) Assistant Secretary.

Endorsed: Filed Feb. 3, 1937. H. P. Warfield, Clerk, U. S. District Court.

Exhibit A.

In the District Court of the United States for the District of Delaware.

In the Matter of Standard Gas and Electric Company, Debtor. No. 1204 in Proceedings for Reorganization.

And Now, to-wit, this 27th day of January, A. D. 1937, the above-entitled cause coming on to be heard upon the petition of the Debtor filed January 27th, 1937, praying that this court make an order or orders authorizing the Debtor to execute and file acceptance by the Debtor of Amended Plan of Reorganization, as modified, of Deep Rock Oil Corporation in substantially the form set forth in Exhibit B attached to said petition, which Amended Plan of Reorganization has been specifically modified in accordance with the modifications contained in Exhibits D and E, attached to said petition, and for authority to the Debtor, its officers and agents to execute any and all such instruments and to do any and all such other acts or things necessary or advisable for such purpose;

And it appearing to the court that it is to the best interest of said Standard Gas and Electric Company, the Debtor herein, and of its creditors and stockholders, that the Debtor be authorized to execute and file acceptance of the Amended Plan of Reorganization, as modified, of Deep Rock Oil Corporation, on motion of Robert H. Richards, Esq., and Clarence A. Southerland, Esq., attorneys for the Debtor,

It Is Ordered by the court,

(1) That Standard Gas and Electric Company, the Debtor herein, be and it is hereby authorized to execute and file acceptance by said Debtor of Amended Plan of Reorganization, as modified, of Deep Rock Oil Corporation, in substantially the form set forth in Exhibit B attached to Debtor's petition filed herein, which said Amended Plan of Reorganization has been specifically modified in accordance with the modifications contained in Exhibits D and E, also attached to Debtor's petition filed herein: and

(2) That Standard Gas and Electric Company, the Debtor herein, its officers and agents, be and they are hereby authorized to execute any and all such instruments and to do any

and all such other acts or things as may be necessary or advisable for such purposes.

(Sgd.) JOHN P. NIELDS, J.

A true copy.

Attest: H. C. Mahaffy Jr., Clerk. (Seal)

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Exhibit B.

Certified Copy of Resolutions of Board of Directors of Standard Gas and Electric Company, January 21, 1937.

Whereas, by resolutions duly adopted by this Board at its meeting held on September 15, 1936, this Board has heretofore approved and authorized the acceptance of a proposed amended plan of reorganization of Deep Rock Oil Corporation;

And Whereas, modifications have been made of said proposed amended plan by order of the District Court of the United States for the Northern District of Oklahoma entered on December 22, 1936, and January 18, 1937, respectively, and said amended plan, as so modified, has been approved and confirmed by said court subject to the acceptance thereof by this company;

And Whereas, in the judgment of this Board, it is advisable and to the best interests of this Company that it accept said proposed amended plan of Deep Rock Oil Corporation as so modified;

Therefore, Be It and It Is Hereby Resolved by the Board of Directors of Standard Gas and Electric Company that the President or any Vice President of this Company be and he is hereby authorized and empowered to execute, and to cause to be filed with, and presented to, the District Court of the United States for the District of Delaware, a petition by this Company to said court, in such form as may be approved by counsel for this Company, for an order or orders of said court authorizing this Company to accept said amended plan, as so modified;

Be It Further Resolved, that the proper officers of this Company be and they are hereby authorized and empowered, if any when such order or orders shall be entered by the said District Court of the United States for the District of Delaware, to

accept in behalf of this Company the amended plan of reorganization of Deep Rock Oil Corporation as so modified.

Be It Further Resolved that the proper officers of this Company be and they are hereby authorized and empowered to execute any and all such instruments and to do any and all such other acts and things as, in their judgment, may be necessary or advisable for the purposes aforesaid.

I, P. A. Lehmkuhl, do hereby certify that I am Assistant Secretary of Standard Gas and Electric Company, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware; that as such Assistant Secretary I have access to all original records of said corporation; and I do hereby further certify that at a meeting of the Directors of said corporation, duly called, held and convened, according to law and the by-laws of said corporation on the 21st day of January, 1937, a quorum being present and voting thereon, the foregoing resolutions were unanimously adopted; that the foregoing is a full, true and correct copy of said resolutions as they appear on the record of said corporation; that the same have not been altered, amended or repealed and are now in full force and effect; and that I am one of the duly authorized and proper officers of said corporation to make certified copies of its records in its behalf.

In Witness Whereof, I have *hereunot* set my hand and affixed the seal of said corporation this 1st of February, 1937.

P. A. LEHMKUHL,
(Seal) Assistant Secretary.

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Order No. 146.

On the 3rd day of February, 1937, this matter coming on to be heard on the motion of William F. Semple, attorney for the Debtor, and on the motion of Messrs. Campbell and Biddison and Messrs. Cutting, Moore & Sidley, attorneys for the Reorganization Committee, and upon the original petition of the Debtor filed herein on June 19, 1934; and this matter having been continued without further notice to this date by order entered herein on December 22, 1936, and the court having heard and considered all objections to the Amended Plan of Reorganization filed herein on November 9, 1936, as modified by the order entered December 22, 1936, and having

heard arguments of counsel and being fully advised in the premises, the court doth, therefore, Find, Consider, Order, Adjudge and Decree as follows:

1. By the order of this court entered December 22, 1936, it was directed that a hearing be held on February 3, 1937, at which time or at any adjournments thereof the court should hear objections to the Amended Plan of Reorganization filed herein on November 9, 1936, as modified by the order entered December 22, 1936; and by said order entered December 22, 1936, the court found that all creditors and stockholders of the Debtor who had previously assented to and accepted the said Amended Plan of Reorganization filed November 9, 1936, as aforesaid, should be given an opportunity to reconsider the said Amended Plan of Reorganization in the light of the modifications made in the order dated December 22, 1936, and to withdraw, on or before January 11, 1937, their respective assents to and acceptances of said amended Plan of Reorganization. The Reorganization Committee, composed of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, parties intervener herein (hereinafter referred to as "the Reorganization Committee"), by the order of December 22, 1936, was authorized and directed to mail, within two days, a copy of the modifications made by the court to the said amended Plan of Reorganization to each of the creditors and preferred stockholders of the Debtor who had theretofore accepted the said amended Plan of Reorganization, that they might, if they so desired, on or before January 11, 1937, withdraw, without expense, their acceptances of the amended Plan of Reorganization and their deposited securities, by written request to do so accompanied by surrender of their respective Certificates of Deposit properly endorsed, filed with the Depositaries of the Reorganization Committee (hereinafter, for convenience, referred to as "Depositaries"), The First National Bank of Chicago, 38 South Dearborn Street, Chicago Illinois, and The Chase National Bank of the City of New York, 11 Broad Street, New York, New York. Notice in the form approved by the court and attached as Exhibit A to the order entered December 22, 1936, was mailed to all the creditors and stockholders of the Debtor who had theretofore accepted the amended Plan of Reorganization within two days of the order dated December 22, 1936. Notice of said modifications to the Amended Plan of Reorganization was duly published in a

daily newspaper of general circulation printed in the English language published in the City of Tulsa, Oklahoma, and in a similar newspaper published in the City of New York, New York, and in a similar newspaper published in the City of Chicago, Illinois, in the form attached as Exhibit B to the order entered December 22, 1936; a hearing has been duly held, and the Debtor and all creditors and stockholders of the Debtor have had full opportunity to be heard on the question whether the court should enter an order finally confirming said Plan as modified and approving, ratifying, confirming and re-entering the order of confirmation entered December 22, 1936.

2. Said order entered December 22, 1936, directed that the duly authorized agents of the Depositaries of the Reorganization Committee should file affidavits stating the principal amount of the notes and the number of shares of Preferred Stock remaining on deposit subsequent to January 11, 1937; that said affidavits should be filed with the clerk of this court on or before January 16, 1937, and that they should be deemed final proof as to the acceptance or non-acceptance of the Amended Plan, as modified by said order entered December 22, 1936, unless contested by a party in interest on or before January 21, 1937. Said affidavits were duly filed on or before January 16, 1937, have not been contested, and the court hereby finds and orders that they are finally approved as to the acceptance of the Amended Plan of Reorganization, as modified by the order entered December 22, 1936, by or on behalf of the holders of notes (extended and unextended) and Preferred Stock of the Debtor whose acceptances are necessary.

The conditional order of confirmation entered by this court on December 22, 1936, as aforesaid, further provided that the approval and confirmation of the amended Plan of Reorganization, as modified by said order, was also subject to the acceptance thereof by Standard Gas and Electric Company before February 8, 1937, pursuant to authority from the District Court of the United States for the District of Delaware; that under date of January 18, 1937, on the petition of Standard Gas and Electric Company filed herein, and after the amended Plan of Reorganization, as modified by the order entered December 22, 1936, had been accepted by the requisite percentage of the holders of the Debtor's gold notes and shares of preferred stock, this court entered its order further

modifying said amended Plan of Reorganization filed herein on November 9, 1936, by changing the first full paragraph on page 56 thereof to read as follows:

"The court shall retain jurisdiction of the New Company's affairs for a period of time at least five years after the date of the income debentures to be issued by the New Company, or for a longer period of time after the expiration of such five year period and until the outstanding principal amount of income debentures has been reduced to $5,000,000, unless the court shall determine sooner to release its jurisdiction after the principal amount of said income debentures shall have been reduced to $5,000,000; provided, however, that if all of the outstanding income debentures of the New Company are retired by a refunding operation or otherwise, prior to the expiration of said five year period, the jurisdiction of the court over the affairs of the New Company shall thereupon be finally terminated."

The District Court of the United States for the District of Delaware, on January 27, 1937, on the petition of Standard Gas and Electric Company, Debtor in said court, entered its order authorizing and directing said Standard Gas and Electric Company to file in this proceeding its written acceptance of the amended Plan of Reorganization filed herein by Deep Rock Oil Corporation, Debtor, on November 9, 1936, as modified by the orders entered by this court on December 22, 1936. and January 18, 1937; and said written acceptance of Standard Gas and Electric Company has been duly filed herein pursuant to the authority of the United States District Court for the District of Delaware, as aforesaid; and the court finds that Standard Gas and Electric Company has therefore accepted the amended Plan filed herein November 9, 1936, as modified by the orders of December 22, 1936, and January 18, 1937, as required by and in conformity to the provisions of Section 77b of the Bankruptcy Act of the United States, as amended.

The court therefore finds that all the requirements and provisions of Section 77b of the Bankruptcy Act of the United States, as amended (hereinafter called "Section 77b"), have been fulfilled and complied with; that within the meaning of subdivision (e) of Section 77b, the Amended Plan of Reorganization, as modified by the orders entered December 22, 1936, and January 18, 1937, has been duly accepted in writing

and such acceptances have been duly approved and presented in these proceedings, by or on behalf of creditors of the Debtor holding more than two-thirds in amount of the claims of each class whose claims have been allowed and are affected by the amended Plan of Reorganization, as modified by the orders entered December 22, 1936, and January 18, 1937, and by stockholders holding more than a majority of the stock of every class having an interest and a right to participate in any plan of reorganization; more particularly, the amended Plan of Reorganization, as modifed by the orders entered December 22, 1936, and January 18, 1937, has been accepted in writing and such acceptance has been filed in this cause by or on behalf of at least the following percentages, by classes, of the total of the claims and interests included in classes 3, 4 and 5 defined in Article V of the order entered December 22, 1936, to-wit:

| | Total Principal Amount Outstanding | Total Amount Covered by Acceptances | Percentage Covered by Acceptances |
|---|---|---|---|
| Class 3 | $11,500,000.00 | $9,726,500 | 84% |
| Class 4 | $ 3,621,866.68 | $3,621,866.68 | 100% |
| Class 5 | 50,000 Shares | 29,144 Shares | 58+% |

3. The order entered herein on December 22, 1936, is hereby in all respects approved, ratified, confirmed and re-entered to the same extent and with the same effect as if said order, and each and every part thereof, were included herein. All objections, whether oral or in writing, to the amended Plan of Reorganization filed herein November 9, 1936, as modified by the orders entered December 22, 1936, and January 18, 1937, are hereby denied and overruled, and said amended Plan of Reorganization, as modified by the orders entered December 22, 1936 and January 18, 1937 is hereby in all respects finally approved and confirmed. All parties hereto, particularly including, without limiting the generality of the foregoing, the Trustee, the Debtor and its officers and directors and agents, and the Reorganization Committee and its depositaries, are hereby authorized and directed, forthwith, to take the steps and perform the acts directed in the order of court heretofore entered on December 22, 1936, which may be necessary, appropriate or proper to consummate and put into effect and operation the said amended Plan of Reorganization filed herein on November 9, 1936, as modified by the orders of court entered December 22, 1936 and January 18, 1937.

4. The Debtor is discharged from all of its debts and liabilities and the rights and interests of all the stockholders of the debtor are hereby terminated, except as provided by the said amended Plan of Reorganization, as modified by the orders entered December 22, 1936 and January 18, 1937, and as provided by the order of this court dated December 22, 1936, and by this order; the said amended Plan of Reorganization, as modified by the orders entered December 22, 1936 and January 18, 1937, shall be binding upon all creditors and stockholders of the Debtor, and all claimants against the property of the Debtor, including those who have not accepted the Plan as well as those who have accepted it, and including all creditors of the Debtor, secured or unsecured, whether or not affected by the said amended Plan of Reorganization, as modified by the orders entered December 22, 1936 and January 18, 1937, and whether or not their claims have been filed in this proceeding, and if so filed, whether or not approved and allowed. Notice having heretofore been given pursuant to the order of November 19, 1934, requiring the claims and interests of all creditors and stockholders of the debtor to be filed or evidenced on or before January 20, 1935, all claims of creditors and all interests of stockholders not heretofore filed or evidenced and allowed in this cause in the manner provided for in said order entered November 19, 1934, shall be and the same are hereby finally barred and foreclosed, and no claim or interest so barred and foreclosed shall be enforced against the assets of the Debtor or against the New Company (as more fully described in Article XIV of the order entered December 22, 1936), or any assets of the Debtor transferred, pursuant to the order of December 22, 1936, and this order, to the New Company, or any portion thereof, and no holder of any claim or interest so barred or foreclosed shall be entitled to any right whatsoever under the said Amended Plan of Reorganization, as modified by the orders of December 22, 1936 and January 18, 1937.

All persons, firms and corporations, including all creditors and stockholders of the Debtor of each and every class, are hereby respectively, severally and jointly, perpetually enjoined and restrained from instituting, maintaining or prosecuting any suit, cause of action or proceeding of any kind or character whatsoever against the Debtor, the New Company, as defined in the order entered December 22, 1936, or against any nominee, successor, assignee or grantee of the said new

Company, or against any person, firm or corporation claiming by, through or under them, or any of them, or against any of the properties, assets, business or good will transferred, conveyed, assigned or vested by the plan herein confirmed or by the order of December 22, 1936, or by this order in the New Company arising out of or based upon any obligation or liability of any kind or character of the Debtor, except pursuant to the terms and provisions of the said amended Plan of Reorganization, as modified by the orders of December 22, 1936 and January 18, 1937, and pursuant to the order of this court entered December 22, 1936, and this order.

Except as provided in the order of December 22, 1936, and in this order, the Convertible Gold Notes of the Debtor, the $7 Cumulative Preferred Stock of the Debtor, the Common Stock of the Debtor, the claims of Standard Gas and Electric Company, and the claims of other general creditors of the Debtor, if any, be and they are hereby cancelled and declared null and void, and the holders and owners thereof are hereby deprived of any and all rights arising out of or incident to the ownership thereof, except that the owners and holders thereof may participate in the amended Plan of Reorganization, as modified by the orders entered December 22, 1936, and January 18, 1937, in the manner prescribed in said plan and by the order of this court entered December 22, 1936, and by this order.

The Debtor and the New Company are hereby discharged from all obligation and liability of every kind and character whatsoever to Standard Gas and Electric Company, the holders and owners of Convertible Gold Notes of the Debtor, $7 Cumulative Convertible Preferred Stock and Common Stock of the Debtor, and to the general creditors of the Debtor, except as provided by the amended Plan of Reorganization, as modified by the orders of December 22, 1936, and January 18, 1937, and except as provided by the terms of the order entered December 22, 1936, and this order; and, except as provided by the terms of the order entered December 22, 1936, and this order, the holders and owners of said notes, stock and all other claims are hereby deprived of all rights, incident to the ownership thereof, except the right to participate in the amended Plan of Reorganization as so modified, in the manner and to the extent provided in said plan and by the order of this court entered December 22, 1936, and this order.

5. The court further finds that Standard Gas and Electric Company filed herein on November 9, 1936, its written offer to compromise its claim for approximately $9,342,000, upon the terms and conditions therein set forth, including the condition that a plan of reorganization acceptable to said Standard Gas and Electric Company should be confirmed on or before February 8, 1937, and that such order of confirmation should remain unreversed if an appeal be taken therefrom; that an order was entered by this court on December 22, 1936, approving the said offer of compromise of the claim of Standard Gas and Electric Company and allowing the claim as therein set forth upon said conditions.

It Is, Therefore, Further Ordered, Adjudged and Decreed that Standard Gas and Electric Company, and all parties hereto, shall not be bound by or entitled to the benefits of the order entered December 22, 1936, conditionally confirming and modifying the amended Plan of Reorganization filed November 9, 1936; and said Standard Gas and Electric Company, and all parties hereto, shall not be bound by or entitled to the benefits of this order or the terms and provisions of said amended Plan of Reorganization, as modified by the orders entered December 22, 1936, and January 18, 1937, if the order entered by this court on December 22, 1936, approving the compromise of the claim of Standard Gas and Electric Company and directing its allowance in accordance with the terms of said compromise shall be reversed if an appeal be taken therefrom; and Standard Gas and Electric Company shall not be bound by or entitled to the benefits of the order entered herein December 22, 1936, approving the written offer of compromise filed herein November 9, 1936, and allowing its claim in accordance with such compromise, if either the conditional order of confirmation entered December 22, 1936, or this final order confirming said amended Plan filed herein November 9, 1936, as modified by the orders entered December 22, 1936, and January 18, 1937, be reversed if an appeal be taken therefrom.

6. The order of December 22, 1936, approving the compromise of the Standard claim subject to the conditions therein set forth and the order of December 22, 1936, approving and confirming the amended plan of Reorganization subject to the conditions there set forth are hereby determined to be conditional orders and both of said orders are hereby finally confirmed on this 3rd day of February, 1937, and the time to appeal

from said orders shall commence to run from this 3rd day of February, 1937.

7. For the determination of all matters germane to this proceeding not theretofore determined, this hearing is hereby continued without further notice to the 6th day of April, 1937.

To this order the Independent Committee for the Protection of the Rights of the Preferred Stockholders excepts. Their exceptions to this order (as to the order entered December 22, 1936), in all respects are overruled and denied, but are allowed to stand as exceptions.

Enter:

FRANKLIN E. KENNAMER, Judge.

Dated February 3, 1937.

Endorsed: Filed Feby. 3, 1937. H. P. Warfield, Clerk.

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Petition for Appeal to Circuit Court of Appeals.

To the Honorable Judge of the United States District Court for the Northern District of Oklahoma:

Come now your petitioners, John M. Taylor, Oscar A, Kennedy and H. Russell Hastings, as the Independent Committee for the Protection of the Holders of the Preferred Stock of the Deep Rock Oil Corporation, Interveners herein, by their attorneys, conceiving themselves to be aggrieved by certain orders entered in the above-entitled proceedings, being certain orders entered on December 22, 1936, and an order on February 3, 1937, making said orders of December 22, 1936, final and appealable, and hereby seek appeal from said orders.

The orders complained of herein are:

(1) An order entered on the 22d day of December, 1936, in which the claim of the Standard Gas and Electric Company was allowed as an unsecured claim in the sum of approximately $5,100,000.00, entitled: "Order Approving Compromise of Claim of Standard Gas and Electric Company in Accordance With Offer Made by Standard Gas and Electric Company, Dated November 7, 1936, and Adjudicating and Allowing said Claim Under the Terms and Subject to the Conditions of said Offer of Compromise."

(2) An order entered herein on the 22d day of December, 1936, confirming the Amended Plan of Reorganization which allots to Standard Gas and Electric Company 73% of the Common Stock in the new Corporation, pursuant to the aforesaid order approving the Standard compromise proposal; and

(3) An order entered on February 3, 1937, entitled order "No. 146" by the terms of which the aforesaid orders of December 22, 1936, are made final and appealable.

Petitioners pray that their appeal from said orders and each of them and every part thereof to the United States Circuit Court of Appeals for the Tenth Circuit may be allowed and that citations may be granted, directed to Standard Gas and Electric Company, the Reorganization Committee, H. N. Greis, Trustee of the Debtor, and Deep Rock Oil Corporation, Appellees, commanding them to appear before the United States Circuit Court of Appeals for the Tenth Circuit, to do and receive that which may appertain to justice, to be done in the premises, and that a transcript of the records, proceedings, papers and evidence upon which said orders were made, duly authenticated, may be transmitted to said United States Circuit Court of Appeals for the Tenth Circuit.

Petitioners further pray for an order fixing the amount of the cost bond to be filed in this cause.

Petitioners herewith submit their Assignment of Errors herein, attached hereto as Exhibit A hereof.

JOHN M. TAYLOR,
OSCAR A. KENNEDY, and
H. RUSSELL HASTINGS,
Independent Committee for the Protection of the Holders of the Preferred Stock of the Deep Rock Oil Corporation, Interveners.

By MILSTEN AND MILSTEN,
SEMPLINER, DEWEY, STANTON &
HONIGMAN, (Signed) Their Attorneys.

Jason L. Honigman, being duly sworn, deposes and says that he is attorney for the Independent Committee for the Protection of the Holders of the Preferred Stock of the Deep Rock Oil Corporation, Interveners and Appellants; that he has had principal charge of the litigation, that he has prepared the

above petition for appeal and that all matters therein alleged are true to the best of his information, knowledge, and belief.

JASON L. HONIGMAN (Signed)

Subscribed and sworn to before me this 20th day of February, 1937. Evelyn G. Smith, Notary Public, Wayne County, Michigan. My commission expires March 17, 1940.

Endorsed: Filed Feb. 2, 1937. H. P. Warfield, Clerk, U. S. District Court.

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Assignment of Errors.

Now Come appellants, John M. Taylor, Oscar A. Kennedy and H. Russel Hastings, as the Independent Committee for the Protection of the Holders of Preferred Stock of the Deep Rock Oil Corporation, by their duly authorized attorneys, and in connection with their Petition for Appeal from those certain orders, being that certain order entered on December 22, 1936, entitled:

> "Order Approving Compromise of Claim of Standard Gas and Electric Company dated November 7, 1936, and Adjudicating and Allowing said Claim Under the Terms and Subject to the Conditions of said Offer of Compromise,"

which said order, by its terms, allows the claim of Standard Gas and Electric Company as an unsecured debt in the sum of approximately $5,100,000,00; and that certain order of December 22, 1936, confirming the Amended Plan of Reorganization, being "Order No. 142," and by the terms of which the allotment is made to Standard Gas and Electric Company of 73% of the common stock of the new company, pursuant to the provisions of said order compromising said Standard claim; and also, that certain order of February 3, 1937, entitled "Order No. 146," making final and appealable said orders of December 22, 1936, file this, their Assignment of Errors, complaining as follows:

1. The District Court erred because said orders provide for the allowance of a claim of approximately $5,100,000, when, as a matter of fact and law, the Standard Gas and Electric Company has no claim whatsoever against the Debtor Corporation.

2. The District Court erred because the facts disclosed by the testimony, records and exhibits are, for the most part, un-

controverted and conclusively demonstrate that there could be no justification for the allowance of the claim of Standard Gas and Electric Company in the amount set forth or in any amount whatsoever.

3. The District Court erred in overruling all of the objections of appellants filed to said compromise proposal which were urged before the District Judge and which were supported by competent proofs.

4. The District Court erred in failing to make any specific findings of fact and law on the objections urged by appellants to approving the compromise of the claim.

5. The District Court erred in overruling all of the objections filed by Appellants to the confirmation of said Plan and failing to make any specific findings of facts and law as to the objections urged by appellants.

6. The District Court erred because, not only does the record in these proceedings disclose that the Standard Gas and Electric Company was not entitled to the allowance of its claim in any amount whatsoever against the Debtor Corporation, but that the Standard Gas and Electric Company was liable to the Debtor Corporation's estate in an amount in excess of Fifteen Million Dollars ($15,000,000), and that its claim against the Debtor Corporation should be disallowed in its entirety under the application of the so-called Instrumentality Rule.

7. The District Court erred because under the uncontroverted facts the record further discloses that the Debtor Corportion was completely dominated by the Standard Gas and Electric Company, its Parent Company; that the Debtor Corporation was operated as a Department or part of the business of the Standard Gas and Electric Company; that the Debtor Corporation had no independent factual existence of its own, but was operated purely for the benefit of the Standard Gas and Electric Company and was entirely subservient to the interests of the Standard Gas and Electric Company.

8. The District Court erred because under the uncontroverted facts the record further discloses that the Standard Gas and Electric Company operated the Debtor Corporation as a Department of its own business without any regard for the interests of the Debtor Corporation or the outside public to which the Debtor Corporation was indebted or to the public

which held approximately Five Million Dollars ($5,000,000.00) of the preferred stock of the Debtor Corporation.

9. The District Court erred because under the uncontroverted facts the record further discloses that the Debtor Corporation was originally formed as a new Department of the Standard Gas and Electric Company, and that the Standard Gas and Electric Company, and its associate interests, undertook to pay a purchase price of in excess of Fifteen Million Dollars ($15,000,000.00), and sought from the inception to saddle onto the Debtor Corporation the obligation to pay off this purchase price and failed to supply to the Debtor Corporation adequate means for the proper operation of its business.

10. The District Court erred because under the uncontroverted facts it appears that from the inception, and for a period of thirteen years, being to the date of receivership, on March 1, 1933, the Debtor Corporation was kept at all times financially dependent upon the Standard Gas and Electric Company for the operation of its business and was almost continuously throughout that period in imminent danger of having its existence wound up for lack of funds.

11. The District Court erred because it appears from the uncontroverted facts that Standard Gas and Electric Company supplied operating funds for the Debtor Corporation from day to day throughout the period of Standard's control over it and that the advancements of these funds were necessitated by the inadequate capital structure supplied by the Parent Company in the first instance and throughout the period of its management of the Debtor Corporation and that any and all advancements made by Standard to the Debtor Corporation were in fact and in law investments of capital by the Parent Company and should be treated as such rather than as an indebtedness on the part of the Debtor Corporation to Standard, its Parent Company.

12. The District Court erred because under the uncontroverted facts it appears that Standard was a Parent Company owning approximately 98% of the common stock of the Debtor Corporation, its subsididary, and that said Parent Company used its control in the complete and absolute domination of the business, management and operation of the Debtor Corporation, and that the control and management by the Parent Com-

pany was grossly fraudulent and detrimental to the interests of the Debtor Corporation and to the public holding the securities of the Debtor Corporation.

13. The District Court erred because under the uncontroverted facts it appears that (a) the Standard Gas and Electric Company, throughout the period of the corporate existence of the Debtor Corporation, sought, from time to time, to withdraw its necessary capital investments in the Debtor Corporation, thereby fraudulently diverting the assets of the Debtor Corporation which should have been made available for the payment of the lawful claims of creditors of the Debtor Corporation and for the protection of the interests of the outside public holding preferred stock of the said Debtor Corporation, all of whom were entitled to share in the distribution of the assets of the Debtor Corporation upon the liquidation before the repayment to the Standard Gas and Electric Company of any of its investment in the capital structure of said Debtor Corporation; (b) the sums so fraudulently diverted during the period of the corporate existence of said Debtor Corporation were in excess of Twenty Million Dollars ($20,000,000.00); (c) the Standard Gas and Electric Company claim discloses that in excess of Twenty Million Dollars ($20,000,000.00) were taken out by the Standard Gas and Electric Company from funds belonging to said Debtor Corporation for application to the credit of the Debtor Corporation on its self-created account with the Debtor Corporation, which should have been left in the possession and control of the Debtor Corporation as an investment by the Standard Gas and Electric Company in the capital structure of said Debtor Corporation.

14. The District Court erred because by virtue of the Standard Gas and Electric Company's operation of said Debtor Corporation as its own Instrumentality or adjunct, it became liable for all of the debts of the Debtor Corporation and should have been made to account in this proceeding for a sum sufficient to pay all debts of the Debtor Corporation other than its own claimed debt.

15. The District Court erred because the said Standard Gas and Electric Company, having operated said Debtor Corporation as its own instrumentality, adjunct or alter ego, is liable as the undisclosed principal for all debts incurred and owing by said Debtor Corporation.

16. The District Court erred because in no event can the Standard Gas and Electric Company's claim against the Debtor Corporation be allowed by virtue of its operation of said Debtor Corporation as a mere instrumentality or adjunct and that the claim of said Standard Gas and Electric Company is, in effect, a claim against itself.

17. The District Court erred because under the facts disclosed by the record, because not only has the Standard Gas and Electric Company no claim against the Debtor Corporation, but it should be adjudged liable under amended pleadings for damages for its fraudulent, wasteful and incompetent management of the affairs of said Debtor Corporation, and should be adjudged liable to the estate of said Debtor Corporation in an amount in excess of Twenty Million Dollars ($20,000,000.00).

18. The District Court erred because under the uncontroverted facts, it appears that the Standard Gas and Electric Company was, by its course of conduct in the handling and operation of Debtor Corporation, actually doing business in the State of Oklahoma, although it was not licensed to carry on any business in that State, and thus all contracts made by it are illegal and the amounts sought to be recovered by Standard Gas and Electric Company must thus be deemed indebtedness accruing from illegal contracts upon which Standard Gas and Electric Company cannot recover.

19. The District Court erred because the various interest charges and discounts which Standard Gas and Electric Company charged to Deep Rock Oil Company were subterfuges for the charging of usurious interest and as such, Standard Gas and Electric Company is liable under the laws of Oklahoma for an amount equal to twice the amount of usurious interest which it charged or collected, and if the usury is determined to have been committed under the laws of Illinois, in any event, Standard Gas and Electric Company cannot collect the usurious interest or any interest whatsoever by virtue of the laws of Illinois affecting usurious contracts.

20. The District Court erred because the following specific items of charges by Standard Gas and Electric Company against said Debtor Corporation totaling $18,883,031.39 were invalid and without any merit whatsoever for reasons as hereinafter set forth. For this reason, it was error for the District

Court to allow Standard Gas and Electric Company any claim whatsoever:

(a) Deep Rock Oil and Refining Company Rentals ..... $4,525,000.00

From the record, these proceedings fully disclose that the entire lease arrangements between the Debtor Corporation and Deep Rock Oil & Refining Corporation were purely a fiction set up by the Standard Gas and Electric Company for a fraudulent diversion of the assets of the Debtor Corporation. That the Deep Rock Oil & Refining Company was purely a dummy corporation formed by the Standard Gas and Electric Company as a means of diverting assets from the Debtor Corporation; that the property lease was never authorized by either the Debtor Corporation or the Deep Rock Oil & Refining Company, hereinafter referred to as the "Refining Company." That the properties purported to be covered by lease were, in fact and in law, the properties of the Debtor Corporation. That the rental obligations and other covenants saddled upon the Debtor Corporation by the action of Standard Gas and Electric Company bore no reasonable relation to a proper and reasonable rental charge for the premises in question. That all of the circumstances in connection with the transaction indicate a purely imaginery deal concocted in the minds of the officials of Standard and having its only evidence in the accounts and papers which they, alone, created and produced. That, by the means of the property lease, and the transactions incident thereto, the Standard Company sought to deprive the Debtor Corporation of an essential part of its business without which it was impossible for the Debtor Corporation to carry on its business. That the items of $4,525,000.00 charged for rental are nothing more than bookkeeping fabrications by the Standard Company as a means of fraudulently *convering* to its own use and benefit the assets of the Debtor Corporation.

(b) Byllesby Engineering & Management Company:

1. Supervision fee ..... $1,219,034.83
2. Sundry charges ..... 230,463.16

The record discloses that these charges are entirely unwarranted and unjustified. That no services were performed by the Byllesby Engineering & Management Corporation. That the Standard Gas owns all of the outstanding capital stock of

the Byllesby Engineering & Management Corporation, and that the two corporations are so intertwined in the nature of their personnel and in the operation of their business as to be deemed a single entity. That the amount of $1,219,034.83 has no basis in fact and was purely a fraudulent concoction of the Standard Gas as a means of diverting the funds and assets of the Debtor Corporation. That the items included in the sundry charges of $230,463.16 were, for the most part, purely arbitrary charges and allocations by Standard to the Debtor Corporation for expenses incurred in the business of the Standard Gas & Electric Company in connection with which the Debtor Corporation was neither consulted or given an independent opportunity to agree. That all of the amounts listed as assumption of open accounts with Byllesby Engineering and Management Company are purely bookkeeping numbers created by the Standard Gas & Electric Company by entries made upon the various pages of its books that bore the names of one of its intertwined corporations, including the Byllesby Engineering and Management Corporation, and including also the Debtor Corporation.

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|---|---|
| (c) H. M. Byllesby & Company | $752,647.10 |
| Compensation paid | 143,425.00 |
| Compensation paid | 168,775.00 |
| Compensation paid | 107,850.49 |

The item of $752,647.10 included numerous items arbitrarily fixed by Standard and its associates without any justification and without any voice by the Debtor Corporation. The items included in said sum are purely bookkeeping transactions, created and set up between Standard and its associate, H. M. Byllesby & Company, which latter corporation owns the controlling interest in said Standard Gas & Electric Company and whose officers and personnel are, for the most part, interchanged with the officers and personnel of the Standard Gas & Electric Company.

The item of $143,425.00 paid to H. M. Byllesby & Company was merely a diversion of funds by Standard and was an unreasonable charge for services performed. That the services for extension of the $10,000,000 note issue were primarily in the interests and for the benefit of the Standard Gas for the protection of its investment in the Debtor Corporation and that there was no justification for any charge being made to the Debtor Corporation.

The item of $168,775.00 does not appear in the Standard Gas account Exhibit A, although it was paid by the Debtor Corporation directly to H. M. Byllesby & Company for the same services as described in the last mentioned item and is objectionable for the same reasons.

The item of $107,850.49 was paid by Debtor Corporation to H. M. Byllesby & Company in 1922. It was a charge for organization expenses which was apparently paid directly to H. M. Byllesby & Company and which, therefore, does not appear on the Standard Company's books as a part of its account against the Debtor Corporation.

The Byllesby interests in creating the Debtor Corporation were merely carrying on the creation of a new project from which they expected a profit, by virtue of the business that was to be done by the Debtor Corporation. There is no basis for justification of a charge against the Debtor Corporation for organization expenses which were a part of the function and project of the Byllesby interests, including the Standard Gas and Electric Company.

| | | |
|---|---|---|
| (c) | Dividends on Preferred Stock | $1,555,981.00 |
| | Dividends on Common Stock | 1,946,672.00 |

That the declaration of dividends on preferred and common stock owned by Standard Gas and Electric Company was entirely unwarranted. That there were no profits or surplus justifying the declaration of the dividends in question. That the books and records of the Debtor Corporation fail to disclose proper reservations for depreciation and depletion, and thereby were made to create an apparent profit and surplus which, in fact, never existed. That the Standard Gas, in the course of its complete and absolute domination of the Debtor Corporation, determined for itself when it desired to divert funds from the Debtor Corporation without any regard to the true financial condition or financial needs of the Debtor Corporation. That the declaration and payment of the dividends in question was in fact nothing more than an additional fraudulent diversion of funds by the Debtor Corporation.

(e) Sales of Shaffer Oil & Refining Company
8's of 1923 to Company.....$451,237.33

The above charge was made by Standard Gas and Electric Company as a payment to itself for services it performed in the

sale of notes issued by the Debtor Corporation. This charge is purely an arbitrary charge fixed by the Standard Company by virtue of its domination of the Debtor Corporation. Such services as were performed by Standard in the sale of these notes were primarily for their own benefit in protecting their investment in the Debtor Corporation and in providing the Debtor Corporation with the funds which it needed for its operations and which should have been provided by the Standard Company in the course of any honest administration of the affairs of the Debtor Corporation.

(f) Acquisition of Common Stock of Home Oil Company ..... $175,000.00

This sum was charged by Standard to the Debtor Corporation for its services in acquiring for the debtor corporation the additional properties consisting of the common stock of the Home Oil Company. The charge is purely an arbitrary one fixed by the Standard Company by virtue of its domination of the Debtor Corporation. No basis appears in the record from which it may be determined whether the work of acquisition of the Home Oil Company was performed by employes by virtue of their interest in Standard Gas and Electric Company or by virtue of their employment with the Debtor Corporation. The record further discloses nothing to indicate that the Debtor Corporation acquired the common stock of the Home Oil Company for any sum less than was reasonable by virtue of any services performed by Standard.

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| (g) | Payment of Federal Income Tax of Deep Rock Oil & Refining Corporation | $ 29,565.91 |
| | Sundry Expenditures | 1,087,569.57 |

The item of $29,565.91 is for income taxes paid charged to Debtor Corporation by virtue of payment of income tax for Deep Rock Oil & Refining Corporation. In addition to this item, $81,000 was paid for 1927 Federal Income Taxes and another $81,000 for 1928 Federal Income Taxes of Deep Rock Oil & Refining Company, and charged by Standard to Debtor Corporation and included in the total of $1,087,569.57 of "Sundry Expenditures." These income tax charges were incurred purely by the creation of a fictitious profit for the Refining Company as a dummy corporation for Standard which the latter used as an instrumentality for diverting funds from Debtor Corporation. The Standard Company indicates by these

charges that it sought only to charge the Debtor Corporation with the rental sums as a means of fraudulently diverting the Debtor Corporation's assets but also with those tax items, which were in effect expenses incident to the diversion.

The remaining charges of these sundry expenditures are purely items created by Standard in its own discretion and allocated to the Debtor Corporation at its own will and pleasure.

(h) Discount on Deep Rock Notes:

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|---|---|---|
| 1. | $10,000,000 note issue, discount | $600,000.00 |
| 2. | 7,500,000 note issue, discount | 275,000.00 |
| 3. | 4,250,000 note, discount | 170,000.00 |
| 4. | 1,057,300 8% note, discount | 90,000.00 |
| 5. | 100,300 6% Bond, discount | 20,000.00 |

All of the foregoing discounts were arbitrarily fixed and determined by Standard by crediting the Debtor Corporation with less than the face value of the notes which it received. The relationship between Standard and the Debtor Corporation was such as to preclude from any fair or equitable standard the charging of any discount by Standard upon advancements, if they were such, to the Debtor Corporation.

| | | |
|---|---|---|
| (1) | Interest on Open Account Balances | $4,819,222.07 |
| | Interest on Notes Receivable | 184,087.93 |
| | Interest on Five Year Six Per Cent Notes Owned by Standard Gas & Electric Co. | 331,500.00 |

The interest on the open account consists of charges for interest on an indebtedness which was never owing in the first instance. If the advancements by Standard to the Debtor Corporation are deemed investments of capital, then there is no debt on which Standard can charge interest to the debtor corporation. If the specific items hereinbefore referred to are disallowed, there likewise would be no debt upon which interest could be charged by the debtor corporation. In any event, the interest figures are purely arbitrary ones fixed by Standard. The interest charge is a seven per cent charge compounded daily which, under all of the circumstances must be deemed unfair and usurious as between the Standard Company and its completely dominated subsidiary, the Debtor Corporation. In part, the interest items included charges of eight per cent interest on outstanding notes which, when due, are added to the

open account and interest is thereafter compounded daily at the rate of seven per cent per annum.

The discussion with reference to the interest charge on the open account is also applicable to the interest items on outstanding notes of the Debtor Corporation which were from time to time held by Standard. The notes were in all instances Standard's own creation and the interest rates were in all instances fixed by Standard and the determination whether to pay or not to pay was likewise made by Standard.

21. The District Court erred because the claim of Standard Gas and Electric Company should be denied for the reason that, under the uncontroverted facts, it appears that the securities of the Debtor Corporation consisting of $10,000,000 of notes and $5,000,000 of preferred stock were sold by Standard and its affiliated companies to upwards of six thousand investors under fraudulent misrepresentation and concealment of information as to the earnings, assets and financial condition of the Debtor Corporation, among which were the following:

(a) It was represented to the public who purchased these securities that the Debtor Corporation was making a profit at a time when the Debtor Corporation was, in fact, suffering huge losses and while the Federal Income Tax Returns filed by the Debtor Corporation set forth losses instead of profits.

(b) The statements of the financial condition of the Debtor Corporation furnished to the public who purchased the securities showed assets in excess of $50,000,000, when, in fact, the assets were worth but a small fraction thereof.

(c) The statements furnished to the public who purchased the securities showed ownership of the "Cracking Plant" at Cushing, Oklahoma, when, in fact, Standard Gas and Electric Company had entered into a fraudulent scheme to divert that asset from the Debtor Corporation and is now claiming that the "Cracking Plant" was owned by another subsidiary of Standard Gas and Electric Company.

(d) The representations to the public in the sale of the securities stated the Debtor Corporation to be in good financial condition, when the testimony in the record before this court at the hearing of the Standard Gas and Electric Company claim disclosed that the chief officials of the Debtor Corporation and of Standard Gas and Electric Company con-

sidered that the Debtor Corporation was at all times "but one step ahead of the wolf."

(e) Information was used by H. M. Byllesby & Company, the top holding company controlling Standard Gas and Electric Company, as to the assets, earnings and operations of the Debtor Corporation, which was not available to the general public in buying and selling securities of the Debtor Corporation, including notes and preferred stock, both as principal and agent.

22. The District Court erred because the claim of Standard Gas & Electric Company should be defeated in its entirety on account of the grossly fraudulent management of the Debtor Corporation by Standard Gas and Electric Company through its wasteful, incompetent operation of the Debtor Corporation and through its many acts of wilfull misconduct constituting conversion of the assets of the Debtor Corporation to its own use to the deteriment of the public holding the securities of the Debtor Corporation, and particularly to the detriment of the holders of preferred stock of the Debtor Corporation.

23. The District Court erred because it arrived at its conclusion without requirement of any audit of the transactions between the Debtor Corporation and its Parent Company, although the account of the Parent Company is based upon an accumulation of thousands of transactions over the period from 1919 to 1933, totaling approximately $52,000,000 in debits and $43,000,000 in credits, and all of which transactions were recorded under the absolute domination and control of the Parent Company.

24. The District Court erred because the accepted compromise proposal and amended plan of reorganization are based upon allowance to Standard Gas and Electric Company of a portion of the items which it seeks to charge against the Debtor Corporation, without taking into account any of the items of countercharges by the Debtor Corporation against Standard Gas and Electric Company on account of illegal fraudulent and unwarranted charges included in the account between Standard Gas and Electric Company and the Debtor Corporation.

25. The District Court erred because that portion of its order compromising the Standard Claim, being part A. of paragraph numbered two, reading as follows:

"(A). The principal sum of $2,376,076.31 (being the principal amount (after allowing Deep Rock Oil Corporation credit for payments made by it) paid by Standard Gas and Electric Company to third parties not affiliated with Standard Gas and Electric Company for the account of Deep Rock Oil Corporation since February 24, 1928, for which Deep Rock Oil Corporation was legally obligated to such third parties)"

is unsupported by any evidence and that even if such were the fact said amount is not properly allowable as a claim for the other reasons herein set forth.

26. The District Court erred because it was without jurisdiction or right to approve said compromise proposal or allow said claim because of its former adjudication under order dated September 23, 1935, denying the compromise proposal as presented by Standard under date of March 8, 1935, which was substantially the same as the instant compromise proposal and the determination thereon was therefore res adjudicata on the acceptance of the instant compromise proposal and allowance of any claim to Standard Gas and Electric Company. The issues before the court in connection with the order of September 23, 1935, were substantially the same as those before the court which were passed upon in its order of December 22, 1936, and having been passed upon by order of September 23, 1935, was a final adjudication which precluded any other judgment by the Trial Court in the absence of an appeal from said order of September 23, 1935.

27. The District Court erred because neither the Trustee of the Debtor Corporation nor his attorney accepted or consented to the compromise of the Standard claim.

28. The District Court erred because the Trustee did not compromise the Standard claim upon such terms as he deemed for the best interests of the estate.

29. The District Court erred because the compromise it approved was not one made by the Trustee and/or upon such terms as the Trustee deemed for the best interests of the estate.

30. The District Court erred because the compromise proposal and Amended Plan of Reorganization were not made by Standard in good faith but were made for the purpose of squeezing out the Preferred position of the holders of the

preferred stock of the Debtor Corporation and as a means of avoiding a final ajudication on the merits of the Standard Gas and Electric Company claim, and further as a means of avoiding an adjudication on the question of the liability of Standard Gas and Electric Company to the Debtor Corporation for unlawful diversion of its assets.

31. The District Court erred because said compromise proposal and Amended Plan of Reorganization were not made in good faith with a view of expediting adjudication of the rights of Standard, inasmuch as the Debtor Corporation has been in receivership since March 1, 1933, and the validity of the Standard Gas and Electric Company claim was questioned at the outset of the receivership. Thus, Standard has had approximately four years in which to adjudicate its claim. Moreover, approximately two years were spent in taking testimony before a Special Master on the question of the merits of the Standard claim, and the testimony was concluded by both sides on February 13, 1935. Thus, there have been approximately two years since the conclusion of the taking of testimony that the Standard Gas and Electric Company claim could have been adjudicated on its merits and no question of compromise would be required or involved. Moreover, the Standard proposal, in practically the same form, was rejected by this court on September 23, 1935. Since then, over a year has elapsed during which the Standard claim could have been adjudicated on its merits. The proposal, therefore, was made in bad faith to avoid a judicial determination on the merits of its claim against the Debtor Corporation.

32. The District Court erred because said compromise proposal and Amended Plan of Reorganization were not made in good faith for the reason that they were not made with a view to terminating the litigation. Standard Gas and Electric Company was well aware of the objections of the preferred stockholders to their first compromise proposal which were substantially similar to the instant one, and the court, by its order of September 23, 1935, sustained those objections. Standard was informed by counsel for appellants prior to submission of the aforesaid compromise proposal that it would not meet with the approval of appellants. Standard thus well knew that its compromise proposal was not made with a view of terminating the litigation but purely with a view of averting an adjudication on the merits of its claim against the Debtor Corporation.

33. The District Court erred because there was no need for any compromise in view of the fact that the District Court could and should have on the record before it made a final adjudication on the merits of the Standard claim.

34. The District Court erred because said compromise and Amended Plan of Reorganization failed to take into account the benefits to accrue to the holders of preferred stock of the Debtor corporation from an ajudication of the liability against the Directors of Standard and of the Debtor Corporation who, for the most part, were the same individuals. By virtue of the gross and fraudulent mismanagement of the Debtor Corporation, the Directors of the Debtor Corporation and of Standard, as well as the Directors of the H. M. Byllesby & Company should be held liable to the Trustee of the Debtor Corporation for the benefit of the public holding the securities of the Debtor Corporation. Such a liability is likely to amount to many millions of dollars and is likely to be sufficient to repay in full the lawful debts of the Debtor Corporation and the full amounts payable to the holders of the preferred stock of the Debtor Corporation upon a liquidation.

35. The District Court erred because said compromise and Amended Plan of Reorganization were unwarranted in failing to take into account the liability of H. M. Byllesby & Company to the Debtor Corporation. The top officers of the said H. M. Byllesby & Company were also the top officers of Standard Gas and Electric Company and the Debtor Corporation, and numerous transactions took place between the Debtor Corporation and H. M. Byllesby & Company of which no proper accounting has been made. Said H. M. Byllesby & Company exercised its domination over the Debtor Corporation in the same manner as did Standard, and said H. M. Byllesby & Company should be made to account for all sums unlawfully diverted from the Debtor Corporation.

36. The District Court erred because said compromise and Amended Plan of Reorganization were unwarranted for the further reasons that any claim which Standard has should be subordinated to the rights of the holders of preferred stock upon application of the principles of the Instrumentality Rule.

37. The District Court erred because said compromise orders were unwarranted as being made in bad faith, inasmuch as the compromise purported to be made by virtue of the suggestion of the District Court at the hearing of Septem-

ber 23, 1935, that it would consider a fair compromise proposal if immediately made by Standard within some such period as ten days. The Honorable Franklin E. Kennamer, District Judge, thereupon suggested the terms of a compromise offer which he thought to be acceptable but that the instant proposal by Standard has no resemblance whatever to the suggestion made by the court and was made over thirteen months after the suggestion by the court was first made, and was made with a view to circumvent an adjudication on the merits of its claim rather than a desire to expedite the termination of the litigation.

38. The District Court erred because it failed to require any showing as to the fairness of the compromise proposal and for the further reason that no such showing was made either by Standard Gas and Electric Company, the Reorganization Committee, the Trustee, or the Debtor Corporation, or any other party in interest, although specific objections thereto were made by appellants and proofs in support thereof were presented.

39. The District Court erred by virtue of its abuse of discretion in the entry of the said orders contrary to the just rights of the holders of preferred stock of the Debtor Corporation under the uncontroverted facts before the court.

40. The District Court erred because its orders were contrary to the overwhelming weight of the evidence before it.

41. The court erred because it entered said order contrary to its own finding at the hearing of September 23, 1935, that the Instrumentality Rule was applicable as the basis for rejecting the claim of Standard Gas and Electric Company.

42. The District Court erred because said orders were unwarranted for the reason that they were unfair to and wrongfully discriminated against the holders of the preferred stock of the Debtor Corporation.

43. The District Court erred because said compromise and Amended Plan are unfair to the holders of preferred stock of the Debtor Corporation by reason of their depriving said holders of preferred stock of their preferred position in sharing in the assets of the Debtor Corporation. That, by the terms of the contract of the Debtor Corporation with its holders of preferred stock, said holders are entitled to be repaid upon a liquidation of the Debtor Corporation One Hun-

dred Dollars ($100.00) per share, and in addition thereto, cumulative dividends at the rate of seven dollars ($7.00) per annum. That there is thereby due to the holders of preferred stock of the debtor corporation Five Million Dollars ($5,000,000.00) in principal amount, and in excess of Two Million Dollars ($2,000,000.00) for cumulated dividends which are payable to them before any distribution is made to the holders of the common stock of the Debtor Corporation. That, by the terms of said Amended Plan, the Standard Gas and Electric Company, which is, practically speaking, the owner of all of the common stock of the Debtor Corporation, is removing the preferred position of said holders of preferred stock and giving them, in its place, nineteen and one-half (19½%) per cent of the equity in the assets of the Debtor Corporation, while retaining for itself seventy-three per cent (73%) of the equity in the assets of the Debtor Corporation.

44. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of the Debtor Corporation, in that they are based upon a compromise of the claim of Standard Gas and Electric Company for an amount that is unwarranted under the facts and law applicable to the relationship and dealing between Standard and Debtor Corporation.

45. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of the Debtor Corporation, in that they eliminate the preferred position of said holders of preferred stock for the benefit of Standard without any adjudication on the merits of the Standard claim.

46. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of the preferred stock of Debtor Corporation, in that they eliminate the preferred position of the holders of preferred stock of Debtor Corporation for the benefit of Standard, by allowance of a claim in excess of Five Million Dollars to Standard, when, in fact, Standard has no claim whatever, as acknowledged by the court in the proceedings of September 23, 1935, at which the original compromise proposal of the Standard claim was heard.

47. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of the

preferred stock of Debtor Corporation, in that they are not based upon a fair and adequate appraisal of the assets of the Debtor Corporation. That a fair and adequate appraisal of the assets of the Debtor Corporation would show a valuation in excess of Twenty Million Dollars ($20,000,000.00) which would be sufficient to pay off the noteholders in full the face amount of their notes and leave an equity of Five Million Dollars ($5,000,000.00) for the holders of the preferred stock, even after allowing the Standard claim at Five Million Dollars ($5,000,000.00).

48. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of the preferred stock of the Debtor Corporation, in that under the uncontroverted testimony, the fair market value of the Debtor Corporation, as a going concern, was not taken into account in the presentation of the appraisal of the Trustee and that, furthermore, as consideration was given by the Trustee's appraisal to the fair market value of the Debtor Corporation as a going concern in the light of its actual and probable net earnings.

49. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of Debtor Corporation, in that they are not based upon any independent or adequate appraisal of the value of the Debtor Corporation.

50. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of Debtor Corporation, in that they are not based upon the true value of the Debtor Corporation.

51. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of Debtor Corporation, in that they are based upon an appraisal which failed to take into account the net earnings of the Debtor Corporation and was, for that reason, acknowledged to be unduly low by the District Judge in open court at the time of hearing.

52. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of Debtor Corporation, in that under the uncontroverted testimony and as a matter of law, no appraisal of

fair market value can be had without taking into account the earnings of the Debtor Corporation.

53. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of Debtor Corporation, in that they give them no opportunity to recoup their investment, in the event of any increased value in the assets of the Debtor Corporation. That, on assets having a book value of over Fifty Million Dollars ($50,000,000.00), Standard is given a seventy-three per cent (73%) interest in the equity above Ten Million Dollars ($10,000,000.00) of notes as compared to a nineteen and one-half per cent (19½%) interest to the holders of preferred stock. That, if the assets of the Debtor Corporation, the book value of which was always maintained under Standard's direction and control, ever reach the amount of the book values set therefor by Standard, Standard would receive for a claim of Five Million Dollars ($5,000,000.00), assets having a valuation of approximately Thirty Million Dollars ($30,000,000.00).

54. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of Debtor Corporation, in that the common stock is proposed to be allocated on an unfair basis. That, by getting 380,000 shares of common stock for a claim of Five Million Dollars ($5,000,000.00), Standard is receiving the common stock on a basis of approximately Fourteen Dollars ($14.00) per share. That the noteholders are waiving approximately One Hundred and Twenty Dollars ($120.00) of interest per One Thousand Dollar ($1,000.00) bond for four (4) shares of common stock, which common stock is thus costing them approximately Thirty Dollars ($30.00) per share. That the holders of preferred stock of the Debtor Corporation are being deprived of a liq dating right of One Hundred Dollars ($100.00) per share of principal and approximately Forty Dollars ($40.00) in cumulated dividends, making a total of One Hundred and Forty Dollars ($140.00) for two (2) shares of common stock, or a cost of approximately Seventy Dollars ($70.00) per share of common stock to the holders of preferred stock. That, by this allignment, Standard is getting approximately five (5) times as much for the indebtedness to it as are the holders of preferred stock for the rights which they have against the Debtor Corporation, which rights amount to Five Million Dollars ($5,000,000.00) in principal amount and

approximately Two Million Dollars ($2,000,000.00) in cumulated dividends, for a total of Seven Million Dollars ($7,000,000.00).

55. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of Debtor Corporation in that, assuming that Standard is entitled to be a creditor for $5,000,000.00, there is still no justification for giving to Standard seventy-three per cent (73%) of the equity of the Debtor Corporation because any equity remaining in the Debtor Corporation, after allocating a fixed claim to Standard, should belong to the holders of Preferred Stock. That it further appears from the very nature of the oil business that the equity may, on a rise of price of oil or under many other future contingencies incident to the oil business, become sufficiently valuable to permit the holders of preferred stock to recoup their investment in full. Under the Amended Plan, preferred stockholders are being given but 19½% of the equity in the Debtor Corporation, thereby effectively depriving them of any future possibility of recoupment of their investment.

56. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of Debtor Corporation, in that they are part of a conspiracy on the part of the Debtor Corporation, the Reorganization Committee, and Standard Gas and Electric Company to squeeze out the major portion of the investment of the holders of preferred stock for the benefit of Standard Gas and Electric Company.

57. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of the preferred stock of the Debtor Corporation, in that Standard is receiving for unadjudicated rights seventy-three per cent (73%) of the equity in the assets of the Debtor Corporation, whereas, the holders of preferred stock are receiving for definite legal right to Seven Million Dollars ($7,000,000.00) upon liquidation of the Debtor Corporation, a total of but nineteen and one-half (19½%) per cent of the common stock of the Debtor Corporation.

58. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of the preferred stock of the Debtor Corporation, in that the present

Reorganization Committee, who is sponsoring said Plan was initiated by H. M. Byllesby & Company and is under the direction and control of John J. Shinners as Chairman, who is an employe of H. M. Byllesby & Company, and that said H. M. Byllesby & Company, is the Top Holding Company controlling Standard and whose chief officers are the same individuals who were the Chief Officers of Standard and of the Debtor Corporation. That the other members of said Reorganization Committee were personally chosen by said John J. Shinners. That the interest of H. M. Byllesby & Company in the protection of the rights of Standard Gas and Electric Company is such as to warrant the conclusion that said Reorganization Committee is not a disinterested committee in the protection of the rights of the public who hold securities of the Debtor Corporation. That the said Reorganization Committee sponsored the original plan of reorganization which contemplated almost a complete wiping out of the rights of the holders of the preferred stock of the Debtor Corporation and which the court found to be unconscionable at the hearing of September 23, 1935. That said Reorganization Committee has been instrumental in furthering the aim of Standard to avoid an adjudication on the merits of its claim by joining with Standard in approving the original compromise proposal as well as the present one and sponsoring the attitude of submission of settlement efforts rather than adjudicating the legal rights of the relationship between the Debtor Corporation and Standard, as well as the Debtor Corporation and H. M. Byllesby & Company. That said Reorganization Committee procured the deposit of in excess of two-thirds of the notes of the Debtor Corporation and in excess of fifty per cent (50%) of the preferred stock of the Debtor Corporation in approval of the original plan of reorganization before any security holders made any attempt to determine the true facts in the relationship between Standard and the Debtor Corporation. That said Reorganization Committee has abused its position of trust to the security holders who deposited with them, in failing to protect the best interests of the security holders under circumstances that required such protection. That, furthermore, said Reorganization Committee by representing both the holders of notes and preferred stock of the Debtor Corporation has not been diligent in the protection of the rights of the holders of preferred stock and by its original plan and Amended Plan has sought merely to protect to a

limited degree the rights of the noteholders of the Debtor Corporation.

59. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of the Debtor Corporation, in that they give them no reasonable opportunity to rehabilitate their losses on account of their investment in the Debtor Corporation.

60. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of the Debtor Corporation, in that giving seventy-three per cent (73%) of the common stock of the Debtor Corporation to Standard leaves the management of the Debtor Corporation in the hands of the same persons who were guilty of gross mismanagement and unlawful diversion of the assets of the Debtor Corporation as well as guilty of wilful misconduct amounting to actual fraud in the withdrawal of assets from the Debtor Corporation for the benefit of Standard and H. M. Byllesby & Company.

61. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of the Debtor Corporation, in that, by providing for control by the court until the notes are reduced to Five Million Dollars ($5,000,000.00), said Amended Plan still provides no adequate protection to the holders of preferred stock, in that thereafter the majority control will still be in the hands of the same people who were guilty of mulcting the preferred stockholders in their handling of the Debtor Corporation.

62. The District Court erred because said compromise of the claim and Amended Plan are unfair to the holders of preferred stock of the Debtor Corporation, in that it is not for the best interests of the Debtor Corporation nor within the rightfull power of the court, that control thereof through appointment of the Chief Executive officer by the court should be retained for any considerable period. That it is a matter of common knowledge that the affairs of business are best handled when not subjected to judicial control, except as legal rights of individuals having an interest in the corporation are violated. That it is generally regarded that a properly managed company can do a better business when out of receivership that while under it, and that subjecting the Debtor Corporation

to the type of control provided for in the Amended Plan has in many respects the same limitations upon the successful operation of a corporation as are to be found in the operation of a corporation under receivership.

63. The District Court erred because said compromise and Amended Plan were not accepted by a majority of the holders of the preferred stock of the Debtor Corporation, inasmuch as, of the total of approximately 29,000 shares of preferred stock represented by the present Reorganization Committee, who have votes in favor of said Amended Plan of Reorganization, 989 shares are owned by Standard Gas and Electric Company and 6,000 shares are owned by Utility and Industrial Corporation, a Delaware corporation, which is under the management and control of H. M. Byllesby & Company. That said 6,989 shares cannot legally be voted in favor of said Amended Plan of Reorganization and the compromise of the Standard Gas and Electric Company claim because such voting is tantamount to a vote by Standard Gas and Electric Company and Byllesby & Company to give to Standard Gas and Electric Company seventy-three *pre* cent of the new common stock of the Debtor Corporation. That the personal interest of H. M. Byllesby and Standard Gas and Electric Company being involved, they have no right to vote on such question. That, by withdrawing the vote in favor of said Amended Plan on the part of said 6,989 shares, the said Amended Plan is lacking of approval by a majority of the holders of the preferred stock of the Debtor Corporation.

64. The District Court erred because said compromise and Amended Plan were not accepted in good faith inasmuch as the interests which accepted said Amended Plan and without which a majority of acceptances is lacking, are prompted by reasons not applicable to those members of the public holding preferred stock of the Debtor Corporation.

65. The District Court erred because neither the offer of said Amended Plan of Reorganization nor its acceptance are in good faith, and have been made and procured by unfair means contrary to the provisions of *Section 77 (b) of the United States Bankruptcy Act*. That said offer and acceptance of said plan were guided by the private interests of and benefits for Standard Gas and Electric Company and H. M. Byllesby & Company, without regard to the true rights of the holders of preferred stock of the Debtor Corporation.

66. The District Court erred because it failed to take into account that the consents of the majority of the security holders to the Amended Plan and Allowance of the Standard claim were secured by the Reorganization Committee through the efforts of itself and affiliated interests whose chief concern was the protection of the interests of Standard Gas and Electric Company and that the security-holders, in giving their consents, were not given sufficient information as to the true nature of the invalidity of the Standard claim.

67. The District Court erred in approving said compromise and Amended Plan when they were based on an allocation of seventy-three per cent of the common stock of the reorganized company to Standard Gas and Electric Company and only nineteen and one-half per cent (19½%) to the holders of preferred stock, which was unfair in the light of the District Court's own statements in open court.

68. The District Court erred because its classification of claims is erroneous to the extent that it permits the allowance or recognition of any claim to Standard Gas and Electric Company.

69. The District Court erred in its finding that the value of the properties of the Debtor Corporation is $17,000,000.00, inasmuch as it is not supported by a fair or proper appraisal, and is contradicted by the uncontroverted testimony before the court which showed that the fair market value of the Debtor Corporation as a going concern is in excess of Twenty-one Million Dollars ($21,000,000.00).

70. The District Court erred in confirming said Amended Plan when, by its terms, in subdivision (1) of the Article X of said order, it will enable the court to retain complete jurisdiction over the affairs of the Debtor Corporation, which is beyond the legal rights of the court, as well as contrary to the best interest of the Debtor Corporation.

71. The District Court erred in finding that said Plan is fair and equitable, inasmuch as said Plan is unfair and inequitable and discriminates unfairly in favor of Standard Gas and Electric Company and against the rights and interests of the holders of preferred stock of the Debtor Corporation.

72. The District Court erred in finding that said Plan and its acceptance were in good faith, inasmuch as said Plan

and its acceptance are in bad faith and the consents thereto have not been obtained in good faith.

73. The District Court erred because by the terms of its order, it assumed practically complete control of all executive officers of the Debtor Corporation, contrary to law and to the best interests of the Debtor Corporation; and further, in that the Court appointed H. N. Greis, as President of the Debtor Corporation, contrary to law and contrary to the best interests of the Debtor Corporation; and further, in that said H. N. Greis should not be retained as President of the Debtor Corporation inasmuch as he has evidenced by his conduct of said Trusteeship an attitude of favoring the interests of Standard Gas & Electric Company as against the rights of the holders of preferred stock of the Debtor Corporation.

74. The District Court erred in compromising the claim and confirming the Amended Plan, in that they were a subterfuge employed by Standard for placing itself as a holder of common stock in a position ahead of the holders of preferred stock.

75. The District Court erred in compromising the claim and confirming the Amended Plan, in that it failed to have before it sufficient facts, independent audit, appraisal or investigation that should reasonably be necessary before entering the aforesaid orders in order to be able to fairly pass upon the fairness of said Amended Plan and Compromise Proposal.

76. The District Court erred in compromising the claim and confirming the Amended Plan, in that they eliminated the major portion of the investment of the holders of preferred stock of the Debtor Corporation without requiring, as requested by appellants, a full and complete hearing and determination on the merits of the claim of Standard Gas and Electric Company against the Debtor Corporation.

77. That the District Court erred in failing to disallow the Standard Gas and Electric Company claim in its entirety and in failing to require delivery to the Trustee of the Debtor Corporation of all assets of the Debtor Corporation now held by Standard Gas and Electric Company or its nominees, including Deep Rock Oil & Refining Company, or other persons, free of any and all claims on account of any contracts, agreements, or leases to the contrary.

Wherefore, Appellants pray that the aforesaid orders, each of them and every part thereof, entered in the above cause by the Honorable Franklin E. Kennamer, District Judge, be reversed, and that such further orders be entered as justice shall require.

Dated this 24th day of February, 1937.

SEMPLINER, DEWEY, STANTON & HONIGMAN,
By JASON L. HONIGMAN,
MILSTEN AND MILSTEN,
By TRAVIS I. MILSTEN,
Attorneys for John M. Taylor, Oscar A. Kennedy and H. Russell Hastings, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation.

Sempliner, Dewey, Stanton & Honigman, Dime Savings Bank Building, Detroit, Michigan; Milsten and Milsten, Tulsa Loan Building, Tulsa, Oklahoma.

Endorsed: Filed Feby. 24, 1937. H. P. Warfield, Clerk.

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Order Allowing Appeal.

Now, on this 24th day of February, 1937, at Tulsa, in the District Court of the United States for the Northern District of Oklahoma, in the above entitled cause, there came on to be heard the petition of John M. Taylor, Oscar A. Kennedy and H. Russel Hastings, as members of the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Interveners, for an appeal to the United States Circuit Court of Appeals for the Tenth Circuit from order No. 146, and every part thereof; And, Whereas, an order was entered on the 22nd day of December, 1936, entitled "Order Approving Compromise of Claim of Standard Gas and Electric Company in Accordance with Offer Made by Standard Gas and Electric Company, dated November 7, 1936, and Adjudicating and Allowing said Claim Under the Terms and Subject to the Conditions of said Offer of Compromise", which said order, by its terms, allows the claim of Standard Gas and Electric Company as an unsecured claim in the sum of approximately $5,100,000.00; and, Whereas,

an order was entered on the 22nd day of December, 1936, confirming the Amended Plan of Reorganization, which said order allots to Standard Gas and Electric Company seventy-three per cent (73%) of the common stock in the new corporation, pursuant to the aforesaid order approving the Standard compromise proposal;

That is to say, from an order entered on the 3rd day of February, 1937, entitled "Order No. 146", by the terms of which the aforesaid orders of December 22nd, 1936, are made final and appealable; said petition also asking for an order fixing the amount of the cost bond, which said Interveners will be required to furnish on said appeal; the said Interveners also submitting the several Assignment of Errors.

The court having duly considered said petition and Assignment of Errors presented, finds that said petition for such appeal and cost bond should be allowed.

It Is Therefore Ordered, Adjudged and Decreed that said Petition for Appeal to the United States Circuit Court of Appeals for the Tenth Circuit from the order entered Feb. 3, 1937, No. 146, heretofore entered be and it is hereby allowed in the manner petitioned, and that a certified transcript of the record be forwarded to the United States Circuit Court of Appeals for the Tenth Circuit.

It Is Further Ordered, Adjudged and Decreed that said Interveners and Appellants furnish a bond on appeal in the amount of $500.00, the same to operate as a cost bond only.

F. E. KENNAMER,
Judge of the United States District Court
for the Northern District of Oklahoma.

Endorsed: Filed Feb. 24, 1937. H. P. Warfield, Clerk U. S. District Court.

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Citation on Appeal.

United States of America, ss.

The President of the United States to the Standard Gas and Electric Company, and its Counsel of Record, N. A. Gibson; the debtor, Deep Rock Oil Corporation, a corporation. William F. Semple, its attorney, and H. N. Greis,

Trustee, and his attorneys of record, George S. Ramsey, Villard Martin and Edgar A. de Meules; the Reorganization Committee for Deep Rock Oil Corporation and its members, John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, and their attorneys of record, Messrs. Campbell and Biddison and Messrs. Cutting, Moore and *Sibley*;

Greetings:

You and each of you are hereby cited and admonished to appear in the United States Circuit Court of Appeals for the Tenth Circuit, to be held in the City of Denver, in the State of Colorado, within forty days from date of this writ, pursuant to an appeal duly obtained and filed in the Clerk's office in the District Court of the United States for the Northern District of Oklahoma, wherein the Independent Committee for the Protection of the Holders of the Preferred Stock of the Deep Rock Oil Corporation, being John M. Taylor, Oscar A. Kennedy and H. Russel Hastings, are Appellants, and you are appellees, to show cause, if any there be, why the orders in said appeal mentioned and from which the appeal was allowed should not be reversed and corrected, and why speedy justice should not be done to the parties in that behalf, and to do and receive that which may appertain to justice to be done in the premises.

Witness, the Hon. F. E. Kennamer, United States District Judge for the Northern District of Oklahoma on this 24th day of February, 1937.

F. E. KENNAMER,
United States District Judge.

Service of above citation acknowledged this Feb. 24, 1937, Standard Gas & Electric Co., by N. A. Gibson, its attorney; Campbell & Biddison, attorneys for Reorganization Committee.

Service acknowledged this 24th of Feb., 1937, William F. Semple (Sgd.), attorney for Debtor Corporation.

Service acknowledged this 1st day of March, 1937, Geo. S. Ramsey, Villard Martin, Edgar A. de Meules & Garret Logan (Sgd.), by Geo. S. Ramsey, attorney for Trustee, March 1, 1937.

Endorsed: Filed March 2, 1937. H. P. Warfield, Clerk U. S. District Court.

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Order.

Now on this 1st day of April, 1937, on the application of the Independent Committee for the protection of the rights of Preferred Stockholders, Intervener herein, for an extension of time within which to complete and file the record on appeal to the Circuit Court of Appeals for the Tenth Circuit, and the court having duly considered said application, and for good cause shown,

It is Ordered, that the aforesaid Intervener should be, and hereby is granted an extension of time until the 5th day of June, 1937, within which to file the record on the appeal heretofore allowed herein in the Circuit Court of Appeals for the Tenth Circuit.

F. E. KENNAMER (Sgd.), Judge.

O.K. N. A. Gibson, (Sgd.) Atty. for Standard Gas & Elec. Co.

Endorsed: Filed April 1, 1937. H. P. Warfield, Clerk U. S. District Court.

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Order.

Now on this 2nd day of May, 1937, on the application of the Independent Committee for the protection of the rights of Preferred Stockholders, Intervener herein, for an extension of time within which to complete and file the record on appeal to the Circuit Court of Appeals for the Tenth Circuit, and the court having duly considered said application, and for good cause shown,

It Is Ordered, that the aforesaid Intervener should be, and hereby is granted an extension of time until the 30th day of June, 1937, within which to file the record on the appeal heretofore allowed herein in the Circuit Court of Appeals for the Tenth Circuit.

F. E. KENNAMER, Judge.

The undersigned counsel for appellees in the above cause hereby approve the within and foregoing order, and consent

to the enlargement of time provided for and allowed in the within and foregoing order.

H. N. GREIS, Trustee,
DEEP ROCK OIL CORPORATION,
By GEORGE S. RAMSEY, VILLARD MARTIN and EDGAR A. de MEULES, his attorneys,
By GEO. S. RAMSEY.
STANDARD GAS AND ELECTRIC COMPANY,
By N. A. GIBSON, R. M. CAMPBELL, WILBUR J. HOLLEMAN, its attorneys.
By N. A. GIBSON.
THE REORGANIZATION COMMITTEE FOR DEEP ROCK OIL CORPORATION,
By CAMPBELL and BIDDISON, and CUTTING, MOORE and SIDLEY, its attorneys.
By JAMES F. OATES, Jr.
DEEP ROCK OIL CORPORATION, a Corporation,
By WILLIAM F. SEMPLE, its attorney,
By WILLIAM F. SEMPLE.

Endorsed June 2nd, 1937. H. P. Warfield, Clerk.

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Praecipe for Record.

To the Clerk of the United States District Court for the Northern District of Oklahoma:

You will please incorporate in the transcript of record on appeal to the United States Circuit Court of Appeals for the Tenth Circuit, in the above entitled cause, the following:

1. Stipulation of counsel for appellant and appellees dated June 17th, 1937.

2. Original Petition of Deep Rock Oil Corporation filed pursuant to Section 77b of the Bankruptcy Act concerning Corporate Reorganizations. Filed 6/19/34.

3. Order Approving Petition of the Debtor, Deep Rock Oil Corporation, filed Pursuant to Section 77b of the Bankruptcy Act. Filed 6/19/34.

4. Order No. 1. Order Appointing Trustee. Filed 6/19/34.

5. Proof of Debt Due Corporation. Filed 6/22/34.

6. Order No. 7. Filed 6/22/34.

7. Stipulation Between Counsel for the Trustee and the Standard Gas and Electric Company. Filed 6/22/34.

8. Order No. 14. Order Making Permanent Appointment of Trustee. Filed 7/9/34.

9. Petition No. 34. Petition of Debtor Concerning Proposal of Plan of Reorganization. Filed 8/9/34. You may omit Exhibit A.

10. Order No. 34. Filed 8/9/34.

11. Petition No. 35. Petition of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee, For Leave to Intervene and For Further Relief. Filed 8/9/34. You may omit Exhibits A and B.

12. Order No. 35. Order allowing the Intervention of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, Members of a Reorganization Committee. Filed 8/9/34.

13. Petition No. 40. Petition of Debtor Proposing Plan of Reorganization for its Consideration by the court. Filed. 8/20/34. You may omit Exhibits A, B and C.

14. Order No. 40. Filed 8/20/34.

15. Order No. 35-A. Order Approving Deposit Agreement. Filed 8/21/34.

16. Petition No. 56. Petition of Trustee for an Order Directing the Filing of Claims and Evidence of Interests of Creditors and Stockholders. Filed 11/19/34.

17. Order No. 56. Determining Time and Manner in Which Claims of Creditors and Interest of Stockholders may be Filed or Evidenced. Filed 11/19/34.

18. Objections of Preferred Stockholders to Claim of Standard Gas and Electric Company. Filed 2/21/35.

19. Petition of John M. and William H. Taylor, Preferred Stockholders, to Intervene. Filed 2/22/35. You may omit Exhibit A.

20. Order Permitting John M. and William H. Taylor to Intervene. Filed 2/25/35.

21. Petition No. 64. Petition for Authority to Compromise Claim of Standard Gas and Electric Company. Filed 3/8/35.

22. Order No. 64. Order of Reference. Filed 3/8/35.

23. Amended Objections of the Trustee in Bankruptcy to the Claim Filed by The Standard Gas and Electric Company, a Corporation, as an Alleged Creditor. Filed 3/8/35.

24. No. 66F. Report of Trustee in Re Claims of Reorganization Committee with Respect to Preferred Stock Deposited with It and Proof of Claim of Reorganization Committee with Respect to Convertible Gold Notes Deposited With It. Filed 3/9/35.

25. Reply to Objections of John M. Taylor and William H. Taylor filed herein. Filed 3/11/35.

26. Reply of Standard Gas and Electric Company to Amended Objections of The Trustee in Bankruptcy to Claim Filed by Standard Gas & Electric Company. Filed 3/11/35.

27. Objections to Proposed Settlement of Standard Gas and Electric Company Claim. Filed 3/25/35.

28. Petition No. 71. Trustee's Petition for Instructions. Filed 4/16/35.

29. Order No. 71. Filed 4/17/35.

30. Report of Special Master, Preston C. West. Filed 5/11/35. You may omit all exhibits, with the exception of Master's Exhibit Four.

31. Order No. 80. Order In Re Hearing Proposed Compromise of Claim of Standard Gas and Electric Company. Filed 5/16/35.

32. Order No. 81. Order In Re Hearing Proposed Com-

promise of Claim of Standard Gas and Electric Company. Filed 5/17/35.

33. Exceptions to Report of Special Master, Preston C. West on Compromise of Standard Gas and Electric Company Claim. Filed 5/29/35.

34. Petition to Direct Trustee to Amend Pleadings and to have Standard Claim Referred Back for Findings of Fact and Law. Filed 6/3/35.

35. Petition for List of Creditors and Preferred Stockholders and to Set Aside Order Number Seventy-one. Filed 6/3/35.

36. Trustee's Reply to Petition of John M. and William H. Taylor, Preferred Stockholders, for Order Directing the Trustee to Amend his Amended Objections to the Standard's Claim. Filed 6/4/35. You may omit Exhibit C.

37 Order setting for hearing 9/16/35 Master's Report on compromise of Standard's Claim. Entered 8/12/35. (Minute Order).

38. Order No. 94. Filed 8/12/35.

39. Order No. 102. Filed 10/15/35.

40. Petition for Hearing on the Merits of the Standard Gas and Electric Company Claim. Filed 11/2/35.

41. Order No. 116. Filed 2/17/36.

42. Report on Amended Deep Rock Reorganization Plan. Filed 2/17/36.

43. Order No. 119. Filed 3/11/36.

44. Order No. 120. Filed 3/31/36.

45. Order No. 123. Filed 5/28/36.

46. Order Allowing Intervener's Attorneys Access to List of Security Holders. Entered 7/6/36. (Minute Order).

47. Order. Filed 7/6/36.

48. Motion. Filed 9/19/36. You may omit all exhibits attached to the Petition of Standard Gas and Electric Company to the Delaware District Court.

49. Order Passing Hearing on Plan of Reorganization and Standard Claim until further Order of Court. Entered 9/19/36. (Minute Order).

50. Petition No. 137. Petition of John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee for Authority and Directions in Reference to the Promulgation, Distribution and Solicitation of Acceptances of an Amended Plan of Reorganization. Filed 11/9/36.

51. Petition No. 137. Filed 11/9/36. You may omit Exhibit A.

52. Order No. 137. Filed 11/9/36.

53. Petition No. 138. Filed 11/9/36. You may omit Exhibit A and Exhibit A attached to Exhibit A.

54. Order No. 138. Filed 11/9/36.

55. Objections of Gerstly, Sunstein and Company to Amended Plan of Reorganization. Filed 12/4/36.

56. Suggested Changes and Modifications to Amended Plan of Reorganization Filed by John J. Shinners, Newton P. Frye, Robert F. Holden, John H. Mason, Grayson M.-P. Murphy and Albert J. Robertson, as a Reorganization Committee. Filed 12/5/36.

57. Objections and Suggested Changes and Modifications to Amended Plan of Reorganization Filed by the Pitcairn Company. Filed 12/7/36.

58. Application of Independent Committee for Protection of Holders of Preferred Stock of Deep Rock Oil Corporation for Permission to Intervene. Filed 12/7/36. You may omit Exhibit B.

59. Objections of Independent Committee to Proposal of November 9, 1936, for settlement of the Standard Gas and Electric Company Claim. Filed 12/7/36.

60. Objections of Independent Committee to Amended Plan of Reorganization of Debtor Corporation. Filed 12/7/36.

61. Objections of William H. Taylor and John M. Taylor to Amended Plan of Reorganization and to Proposed Com-

promise of Claim of Standard Gas and Electric Company. Filed 12/7/36.

62. Affidavit. Filed 12/12/36. You may omit Exhibit A.

63. Order on Proposal of Amended Plan of Reorganization Filed Herein by the Debtor on November 9, 1936. Filed 12/17/36.

64. Order Permitting Intervention of John M. Taylor, Oscar A. Kennedy and T. E. Webster as Independent Committee for the Protection of the Holders of Preferred Stock of the Deep Rock Oil Corporation. Filed 12/22/36.

65. Return and Certificate of Trustee. Filed 12/12/36.

66. Order No. 142. Filed 12/22/36.

67. Order Approving Compromise of Claim of Standard Gas and Electric Company in Accordance with Offer made by Standard Gas and Electric Company, dated November 7, 1936, and Adjudicating and Allowing said Claim under the Terms and Subject to the Conditions of said Offer of Compromise. Filed 12/22/36. You may omit Exhibit A.

68. Operating Report of Trustee for the Period of Time from 3/1/33 to 11/30/36. Filed 1/11/37. You may omit from "Analysis of Accounts Payable" the itemized list of Miscellaneous Accounts Payable and include in the Transcript only the total of Miscellaneous Accounts Payable.

69. Affidavit of August J. Hurt. Filed 1/15/37.

70. Affidavit of O. D. Settle. Filed 1/15/37.

71. Petition No. 144. Petition of Standard Gas and Electric Company Re Jurisdiction of Court Over New Company. Filed 1/18/37.

72. Order No. 144. Filed 1/18/37.

73. Order. Filed 1/20/37.

74. Objections of Independent Committee for the Protection of Holders of Preferred Stock to Amendments to Plan of Reorganization as set forth in Order of December 22, 1936. Filed 1/21/37.

75. Supplemental Objections of the Independent Committee for the Protection of Holders of Preferred Stock to Amendments to Plan of Reorganization as Set Forth in Order of December 22, 1936. Filed 2/3/37.

76. Acceptance by Standard Gas and Electric Company of Amended Plan of Reorganization as Modified of Deep Rock Oil Corporation. Filed 2/3/37.

77. Order No. 146. Filed 2/3/37.

78. Petition for Appeal to Circuit Court of Appeals. Filed 2/24/37.

79. Order Allowing Appeal. Filed 2/24/37.

80. Citation on Appeal. Filed 3/2/37.

81. Order. Filed 4/1/37.

82. Order. Filed 6/2/37.

83. The Narrative Statement of all Testimony and Exhibits and order of Court approving same.

84. Praecipe for record to the Clerk of the United States District Court for the Northern District of Oklahoma.

SEMPLINER, DEWEY, STANTON & HONIGMAN,
By MILTON J. MILLER,
June 17,1937. Counsel for the Independent Committee for the Protection of the Holders of the Preferred Stock of Deep Rock Oil Corporation.

H. N. Greis, Trustee, Deep Rock Oil Corporation, Standard Gas and Electric Company, The Reorganization Committee for Deep Rock Oil Corporation, Deep Rock Oil Corporation, a corporation, acknowledge service of praecipe on this date, and agree that the said praecipe calls for all proper pleadings and the respective parties waive their right to file a counter praecipe, under the rules of the United States Circuit Court of Appeals for the Tenth Circuit, and Federal Equity Rule 75, and agree that the clerk may send up the Record

according to the praecipe, to the Circuit Court of Appeals immediately.

H. N. GREIS, Trustee,
Deep Rock Oil Corporation,
By GEORGE S. RAMSEY, VILLARD MARTIN, and EDGAR A. de MEULES, his attorneys.
By GEO. S. RAMSEY (Sgd.)
STANDARD GAS AND ELECTRIC COMPANY,
By N. A. GIBSON, R. M. CAMPBELL, WILBUR J. HOLLEMAN, its attorneys,
By N. A. GIBSON (Sgd.)
THE REORGANIZATION COMMITTEE FOR DEEP ROCK OIL CORPORATION,
By CAMPBELL and BIDDISON, and CUTTING, MOORE and SIDLEY, its attorneys,
By CHARLES F. MARTIN, Jr. (Sgd.)
DEEP ROCK OIL CORPORATION, a corporation,
By WILLIAM F. SEMPLE, its attorney,
By WILLIAM F. SEMPLE, (Sgd.)

Endorsed: Filed June 19, 1937. H. P. Warfield, Clerk.

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Certificate of Clerk.

United States of America, Northern District of Oklahoma, ss:

I, H. P. Warfield, Clerk of the United States District Court for the Northern District of Oklahoma, do hereby certify that the above and foregoing together with the Statement of the Evidence which is Volume 2 and 3 of said record; Volume 2 comprising 962 pages and Volume 3 comprising 159 pages (separate Volume of lithograph exhibits), is a full, true and correct transcript of so much of the record in the proceeding of, In the Matter of—the Deep Rock Oil Corporation, a Corporation,—Debtor, No. 2318 In Proceedings for P organization (consolidated) as ordered by praecipe of co sel herein,

to be prepared and certified as the same appears from the records in my office.

I Further Certify that the Citation attached hereto and returned herewith is the original Citation issued in this proceeding.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of said court at my office in Tulsa, this 24th day of June, A. D. 1937.

(Seal) H. P. WARFIELD, Clerk.
By M. M. EWING, Deputy Clerk.

And thereafter the following proceedings were had in said cause in the United States Circuit Court of Appeals for the Tenth Circuit, viz.:

(Order of Submission.)

First Day, January Term, Monday, January 10th, A. D. 1938. Before Honorable Orie L. Phillips, Honorable Sam G. Bratton and Honorable Robert L. Williams, Circuit Judges.

This cause came on to be heard and was argued by counsel, Jason L. Honigman, Esquire, appearing for appellants, James F. Oates, Jr., Esquire, appearing for Reorganization Committee of Deep Rock Oil Corporation, appellee, George S. Ramsey, Esquire, appearing for H. N. Greis, Trustee, appellee, N. A. Gibson, Esquire, appearing for Standard Gas and Electric Company, appellee.

On motion, appellants were granted leave to file twenty printed copies of a reply brief in this cause instanter, which was accordingly done.

Thereupon this cause was submitted to the court.

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[Opinion.]

No. 1545—April Term, 1938.

[April 27, 1938.]

Jason L. Honigman (Sempliner, Dewey, Stanton & Honigman, Milsten & Milsten, A. W. Sempliner, Milton J. Miller, and Leonard Horton were with him on the brief) for appellants.

N. A. Gibson (R. M. Campbell and Wilbur J. Holleman were with him on the brief) for Standard Gas and Electric Company.

James F. Oates, Jr. (Sidley, McPherson, Austin & Burgess, Campbell & Biddison, Paul V. Harper, John Dern, and Charles F. Martin, Jr., were with him on the brief), for the Reorganization Committee.

George S. Ramsey (Edgar A. de Meules, Villard Martin, and Garrett Logan were with him on the brief) for H. N. Greis, Trustee.

W. F. Semple for Deep Rock Oil Corporation.

Before Phillips, Bratton and Williams, Circuit Judges.

Phillips, Circuit Judge, delivered the opinion of the court.

This is an appeal from orders confirming a plan of reorganization under Section 77B of the Bankruptcy Act, and the approval of a compromise of a claim against the debtor as an integral part of the plan.

The debtor was incorporated under the laws of Delaware on May 31, 1919, under the name of Shaffer Oil & Refining Company. In 1931 its name was changed to Deep Rock Oil Corporation. It will hereinafter be referred to as Deep Rock. The claimant, Standard Gas and Electric Company, hereinafter called Standard, was organized under the laws of Delaware in 1910.

H. M. Byllesby & Company, hereinafter called Byllesby, was organized under the laws of Delaware in 1904. It is an investment banking company engaged in underwriting, marketing and selling securities and in holding investment securities. Prior to 1919 it also engaged in engineering and management service.

Standard Power and Light Company owned a majority of the voting stock of Standard. Byllesby and United Electric Power Company owned the majority of the voting stock of Standard Power and Light Company; up to 1936, through this ownership, they jointly controlled Standard. Byllesby elected eight of the fifteen directors of Standard. However, in 1936 Byllesby was wholly divorced from Standard.

Byllesby Engineering and Management Corporation, hereinafter called Management Corporation, was organized under the laws of Delaware in 1919. It took over the engineering and management staffs of Byllesby. It furnishes the service of trained experts and technicians in the fields of management, engineering, insurance, advertising, rate making, financing, and valuation. It also maintains a purchasing department through which mass purchases at quantity discounts are made for the corporation it serves. All of its stock was issued to Standard.

Since its organization Standard has engaged in the investment business. Since 1919 it has also engaged, through its wholly owned subsidiary the Management Corporation, in furnishing engineering and other technical service. Up to 1919 Standard's investments were wholly in public utility securities. In that year, because of concern respecting the existing financial situation and diminishing returns from its public utility

investments, it sought an investment opportunity in a field that would bring it greater returns, and its attention was directed to the oil business, a wholly unrelated industry. Messrs. C. B. Shaffer and E. E. Smathers owned a very large integrated oil business in the states of Oklahoma, Arkansas, and Kansas and the opportunity to acquire an interest in that business was brought to the attention of Standard. Negotiations were carried on which resulted in a contract on May 20, 1919, between Shaffer and Byllesby. It provided that Shaffer should organize a corporation under the laws of Delaware and in consideration of $15,580,000.00, convey to it certain oil properties consisting of lands, developed and undeveloped leases, and plants, stations and equipment for the production of crude oil and the refining, manufacture and sale of petroleum products; and that Byllesby should purchase from the corporation to be formed $11,000,000.00 par value of bonds, 50,000 shares of preferred stock of the par value of $100.00 each, and 120,000 shares of common stock and pay therefor $15,200,000.00 in cash.

Deep Rock was organized, Shaffer transferred the properties to it and received therefor $9,500,000.00 in cash, the note of Byllesby and Standard due in four months for $1,000,000.00, 80,000 shares of Deep Rock common and 50,000 shares of Deep Rock preferred. From March 31, 1920, to March 18, 1921, Shaffer was a director and president of Deep Rock. Standard was dissatisfied with the results obtained under Shaffer's management. In 1921 arrangements were made for him to retire from Deep Rock under which he surrendered bonds of Deep Rock of the par value of $200,000.00, preferred stock of Deep Rock of the par value of $5,000,000.00, and 80,000 shares of common stock of Deep Rock, for which Deep Rock paid him $10,000.00 in cash and gave him two notes, in the aggregate amount of $740,000.00, and certain oil properties in the state of Louisiana. Shaffer resigned as an officer and director and four other directors who had been elected at the request of Shaffer also resigned. In May, 1921, an appropriate reserve for the reduction in asset was set up on Deep Rock's books.

The capital structure of Deep Rock at the time of its organization was 500,000 shares of common stock, par value $1.00 per share, 50,000 shares of preferred stock, par value $100.00 per share, and $15,000,000.00 of first mortgage bonds. After 1928 the capital structure consisted of $10,000,000.00 of publicly owned 6 per cent notes, 50,000 shares of publicly owned

preferred stock, par value $100.00 per share, and 580,000 shares of common stock. From the formation of Deep Rock, Standard owned a majority of the shares of common stock. From the time of the retirement of Shaffer, Standard owned substantially all of the common stock. At the time of the inception of the receivership, hereinafter referred to, it owned 98 per cent of the common stock. From 1921 to 1932, inclusive, Standard elected the board of directors of Deep Rock. A majority of such directors were also directors of Standard. During that period certain of the officers of Deep Rock were also officers of Standard.

In 1924, John L. Gray, an experienced engineer and refinery operator, was employed to make a survey and report on Deep Rock and its subsidiaries; on October 1, 1924, he became its executive vice president and general manager and continued in that capacity until February 28, 1933. L. B. Riddle was vice president in charge of production of Deep Rock from May, 1922, until February 28, 1933. The business of Deep Rock from 1924 on was under the management and direction of Gray and Riddle. Each of them owned securities of Deep Rock and neither had any interest in Standard or Byllesby, except that during the year 1928 only Gray served as a director of Standard.

On the organization of Deep Rock, Bernard L. Majewski became division manager of sales of its Illinois-Indiana division. He was connected with the properties under the Shaffer ownership. He became a director and vice president in charge of sales in 1928 and continued in that capacity until February 28, 1933. W. E. Moody was in charge of refinery operations, first under Shaffer and later under Deep Rock. In 1928, he became a director and vice president in charge of the refinery operations. William R. Francisco became associated with Deep Rock in 1919 in charge of auditing, accounting and finance. He became a director and treasurer in 1923 and continued in that capacity until February 28, 1933. O. O. Kerr became assiciated with Deep Rock at the time of its organization. He became assistant treasurer in 1922 and continued in that capacity until February 28, 1933. Moody, Francisco and Kerr were not interested in or officially associated with Standard or Byllesby.

Deep Rock was not organized as a department of Standard. Each kept separate and distinct corporate records and books

and the properties and assets of the former were not commingled with those of the latter. Deep Rock paid its own officers and employees. The offices of Deep Rock were first maintained at Chicago. Soon after Mr. Gray became executive vice president and general manager they were moved to Tulsa, Oklahoma. The officers at Tulsa held frequent consultations with the officers and directors of Deep Rock in Chicago upon questions of acquiring additional gasoline stations, oil and gas leases, and other oil properties, and with reference to financing and general business policies. These conferences were consultive in character. The officers at Tulsa were in actual charge of the operations and affairs of Deep Rock and were not dictated to by Standard or its officers. At these meetings the annual budget of Deep Rock was gone over, its financial requirements considered, and on request of the Tulsa officials, Standard made frequent advances and loans of funds to Deep Rock. But for its ability to borrow from Standard, Deep Rock's liquid funds would not have been sufficient to take care of the cost of expansion and current requirements.

In 1922 and 1923, on the recommendation of Riddle, and by the use of funds advanced by Standard, which amounted in the aggregate to $2,544,591.00, Deep Rock acquired certain producing properties and built a cracking plant thereon which became an important part of Deep Rock's refinery operations. The legal title to such properties, hereinafter referred to as the Refining Company properties, was transferred to J. C. Kennedy, as trustee, and Deep Rock was charged with the funds advanced by Standard. On February 26, 1923, Deep Rock Oil & Refining Company, hereinafter called the Refining Company, was organized under the laws of Delaware with an authorized capital stock of 15,000 shares without par value. Later as the result of transactions reflected on the books of the three corporations, Standard became the owner of the entire capital stock of the Refining Company and its unsecured note in the sum of $1,894,592.11, and Deep Rock was credited with $2,544,591.00 expended in the acquisition of the Refining Company properties. Deep Rock retained $1,619,398.88 realized from the previous operation of the Refining Company properties, and in October, 1925, leased them from the Refining Company at a rental of $75,000.00 per month for the first three months and $50,000.00 per month thereafter. The lease was renewed December 20, 1930. Thereafter, the Refining Company declared dividends on its

stock payable to Standard equal to the rent due to the Refining Company from Deep Rock. Deep Rock did not pay the rentals as they accrued. Standard charged Deep Rock therewith on open account and credited the Refining Company with equivalent amounts as dividends received. In all the transactions between Deep Rock and Standard, the transfer of the Refining Company stock to Standard and the lease of the Refining Company properties to Deep Rock at a very large rental is the only instance where it can be said Standard exercised its control to the benefit of Standard and to the detriment of Deep Rock.

When the $10,000,000.00 of 6 per cent Deep Rock notes were issued and sold in 1928, Standard surrendered its claim against Deep Rock for $11,086,195.85 determined as of February 24, 1928, 90,000 shares of Deep Rock 7 per cent preferred stock and 40,000 shares of Class A common stock, and received in lieu thereof 442,448 shares of Deep Rock common stock. These transactions improved the position of the 6 per cent notes by the elimination of Deep Rock's indebtedness to Standard and improved the position of the other holders of preferred stock by the elimination of the preferred stock held by Standard, and resulted in substantially no benefit to Standard as a common stockholder since it already owned substantially all of the outstanding common stock of Deep Rock.

Thereafter, Standard continued to make advances to Deep Rock and the latter made payments on account from time to time.

On February 28, 1933, Gray and Riddle filed in the district court of Tulsa County, Oklahoma, a proceeding in equity against Deep Rock, Standard, the Refining Company, and the Oklahoma Gas & Electric Company, and prayed for the appointment of a receiver for Deep Rock.[1]

On the day the bill was filed the state court appointed a receiver for Deep Rock. Immediately thereafter the cause was duly removed to the District Court of the United States for the northern District of Oklahoma[1a] and on March 2, 1933, the court appointed H. N. Greis and E. H. Moore coreceivers of Deep Rock.

[1] Shortly after the institution of the suit it was dismissed as to all the defendants except Deep Rock.

[1a] For brevity hereinafter referred to as "the court."

On August 15, 1933, Standard filed a petition in intervention in the receivership proceeding in which it set up its claim against Deep Rock for $9,342,642.37. All except a relatively small amount of the claim had accrued subsequently to April 12, 1928. On November 38, 1933, the receivers filed their answer and counterclaim to Standard's petition in intervention. They attacked the transfer of the Refining Company stock to Standard and the leases from the Refining Company to Deep Rock and averred that Deep Rock, the Refining Company, and the Management Corporation were and at all times had been mere agents, instrumentalities, and adjuncts of Standard organized and utilized by Standard for the purpose of transacting its business in Oklahoma and prayed that the separate corporate entities be disregarded and Standard adjudged indebted to Deep Rock in the sum of $8,756,719.50. The court appointed Honorable Preston C. West special master to hear the Standard claim and the counterclaim of the receivers.

On June 19, 1934, Deep Rock filed its petition under Section 77B of the Bankruptcy Act, 11 USCA §§ 206, 207. On the same day the court approved the petition and appointed Greis temporary trustee. On July 9, 1934, it appointed Greis as permanent trustee. On June 22, 1934, Standard filed its proof of claim in the bankruptcy proceeding. The trustee renewed the challenge he had asserted as receiver. The claim was again referred to West as special master with instructions to take the evidence and report it with his findings of fact and conclusions of law to the court.

Extensive hearings were conducted before the special master throughout 1934 and the early months of 1935. Witnesses were examined at Chicago and Tulsa. Elaborate interrogatories were prepared by Messrs. Ramsey, de Meules, Martin and Logan,[2] counsel for the receivers and later for the trustee, and were presented to and answered by various officials and agents of both Standard and Deep Rock. An extensive stipulation, accompanied by 28 exhibits, was entered into between counsel for the trustee and Standard. The witnesses for Standard evidenced no disposition to suppress any material fact.

The $10,000,000.00 note issue and the preferred stock of

[2]Judge George S. Ramsey was leading counsel for the receivers and later for the trustee.

Deep Rock had been sold by Byllesby, Janney & Company, and the Federal Securities Corporation. In 1932, Deep Rock engaged Byllesby for a reasonable consideration to endeavor to arrange for extending the maturity of the notes from March 1, 1933, to March 1, 1937. Byllesby was engaged in this undertaking when the receivership proceeding was instituted and had procured extension agreements from more than 78 per cent in amount of the holders of such notes. Upon the institution of the receivership Byllesby determined to form a reorganization committee. The committee consisted of John J. Shinners, vice president of Byllesby, Robert F. Holden, vice president of Janney & Company, Newton P. Frye, president of the Central Republic Company of Chicago, and formerly vice president of the Federal Securities Corporation, G. M. P. Murphy, a prominent banker of New York City, Albert J. Robertson, vice president of a Des Moines, Iowa, banking institution, and John H. Mason, formerly chairman of the Main Line Trust Company of Ardmore, Pennsylvania. No member of the reorganization committee owned any of the Deep Rock securities. Mason had no interest in or direct connection with Byllesby or Standard. Frye, Robertson, Murphy, and Holden had no interest in or connection with Byllesby or Standard except that they had on occasion acted with Byllesby in syndicates underwriting and selling securities. The committee employed independent counsel wholly disassociated with Byllesby and Standard.

The committee recognized that the validity and extent of the Standard claim was an important element in the formulating of any plan of reorganization. It made no effort to secure deposits of notes and preferred stock under the terms of the conventional deposit agreement. It proceeded at once with an independent and careful study of the relationship and transactions between Deep Rock, Standard, Byllesby, the Management Corporation, and the Refining Company. With the aid of its counsel and accountants the committee reviewed the history of the Standard claim, the effect of the 1928 settlement, the basis and legitimacy of the items constituting the claim, and the legal principles and issues involved. In 1934, counsel for the committee advised its members that Standard would have to be considered in any reorganization plan, since in their opinion the instrumentality rule was not applicable and Standard could establish a claim in the approximate amount of $7,300,000.00.

In August, 1934, more than 18 months after the inception of the receivership proceeding, the committee concluded that a reorganization plan should be submitted to the security holders in a form that might be susceptible of consummation promptly upon the determination of the Standard claim. In August, 1934, the committee intervened in the bankruptcy proceeding and filed a deposit agreement together with a proposed plan of reorganization. After due notice to all creditors and security holders, the deposit agreement was adjudged by the court to be fair and its terms and provisions were approved. The committee was authorized to solicit deposit of Deep Rock notes and preferred stock in acceptance of the proposed plan of reorganization. The plan was proposed by Deep Rock as debtor. It was predicated upon the allowance of the Standard claim for at least $5,000,000.00, of which a substantial amount was to rank on a parity with the Deep Rock notes. The plan specifically provided that whatever might be determined by the court as to the validity, extent and rank of the Standard claim all noteholders who had theretofore deposited with the committee would be accorded an opportunity to withdraw without expense after being informed of the result of the adjudication of the Standard claim.

On February 22, 1935, six months after the submission of the original plan, Messrs. John M. Taylor and William H. Taylor, who were then the owners of 550 shares of preferred stock, intervened in the proceeding. A large number of noteholders and preferred stockholders had then accepted the original plan and had deposited their securities with the reorganization committee.

There soon began insistent demands by the depositors that the legal proceedings be terminated and the reorganization completed. In February, 1935, Mr. Shinners called upon Judge Ramsey, counsel for the trustee, and inquired whether there was any basis on which a compromise of the Standard claim could be effected. Judge Ramsey refused to consider the question of compromise until the proofs were completed. The evidence was closed on February 13, 1935. Mr. Shinners then proceeded with his efforts to induce Standard and its counsel and the trustee and his counsel to arrive at a compromise. As a result Standard addressed an offer of compromise to the trustee providing for the allowance of the Standard claim in the aggregate amount of approximately $5,000,000.00, approximately $3,500,000 thereof to rank on a parity with the

noteholders. On March 8, 1935, the trustee filed a petition reporting the offer to the court and requesting authority to accept it. In his petition for approval the trustee stated that he had given careful consideration to the offer of compromise and had consulted his counsel, that many debatable questions of law and fact were presented, and that he believed the offer to be fair and its acceptance for the best interests of the estate.

The court referred the petition and the question of the approval of the compromise to West as special master. The special master gave due and ample notice to the creditors and stockholders of the hearing on the offer of compromise. Judge Ramsey prepared and filed with the special master a narrative statement of the evidence on the Standard claim and an exhaustive brief on the issues presented, both of fact and law. The Taylors filed objections to the offer of compromise predicated on the defenses asserted by the trustee against the allowance of the claim. A hearing was held before the master on March 25, 1935. After a lapse of six weeks the special master filed his report in which he carefully considered all the pertinent matters, found that the factual and legal issues were debatable, that the compromise was fair, that its acceptance was for the best interests of the estate, and strongly recommended its approval.

The master's report came on for hearing before the court on June 3 and September 23, 1935. The Taylors appeared and objected to approval of the report. After careful consideration the court refused to approve the compromise. The refusal was not predicated on the ground that the claim should not be compromised, but rather on the proposition that the compromise and the plan were definitely related; that the compromise should be made an integral part of the plan, and that considered together the offer was not fair. On September 23, 1935, the court entered an order denying the trustee's petition and directed the parties to continue their efforts to effect a compromise.

On September 27, 1935, the district court of the United States for the District of Delaware acquired jurisdiction over Standard in a proceeding under Section 77B of the Bankruptcy Act.

About January 1, 1936, the reorganization committee informally reported to the court in the presence of counsel for

the trustee, Standard, and the Taylors, a new offer of compromise of the Standard claim and an amended plan of reorganization. Early in January, 1936, the court informally referred the new proposal of compromise and amended plan to a committee consisting of Judge Ramsey, representing the trustee, N. A. Gibson, Esq., representing Standard and Travis I. Milsten, Esq., representing the Taylors, with the request that they consider and report thereon. A divided report was filed, Messrs. Ramsey and Gibson favoring the new proposal of compromise and amended plan and Mr. Milsten opposing them. Upon receipt of the report of the informal committee and on February 17, 1936, the court entered an order directing the reorganization committee to submit an amended plan or reorganization and as an integral part thereof a new offer of compromise of the Standard claim authorized by the Delaware court. On November 2, 1936, the Delaware court entered an order authorizing Standard to submit the new offer of compromise and to accept the amended plan.

On November 9, 1936, Deep Rock, with the approval of the court, made amendments to the plan originally proposed in August, 1934, and Standard presented its new offer of compromise. The court set the hearing on the new offer of compromise and amended plan for December 12, 1936, directed the reorganization committee to submit the amended plan and new offer of compromise to the creditors and stockholders of Deep Rock, and to advise those who had accepted the original plan that they were entitled to withdraw their securities without expense on or before December 5, 1936, failing which they would be deemed to have accepted the amended plan and new offer of compromise.

The new offer of compromise provided for the allowance of the Standard claim as follows:

(a) The sum of $2,376,076.31, being the principal amount, after allowing Deep Rock credit for payments made by it, paid by Standard to third parties not affiliated with Standard for the account of Deep Rock since February 24, 1928, for which Deep Rock was legally obligated to such third parties.

(b) The sum of $1,585,485.18, being the amount actually expended by Standard in the purchase and development of the Refining Company properties, less rentals which accrued prior to the 1928 settlement, for which Standard received common stock.

(c) Interest on $2,376,076.31 embraced in item (a) at the rate of 5 per cent per annum from February 28, 1933, to the date of approval of the compromise, and on item (b) at the rate of 5 per cent per annum from August 5, 1933, to the date of approval of the compromise.

(d) $1,500,000.00 of the aggregate amount in items (a) and (b) to rank on a parity with the Deep Rock notes.

It further provided that Standard should transfer to the trustee of Deep Rock the entire issued and outstanding capital stock of the Refining Company, and that R. J. Graf, trustee, who had succeeded Kennedy as trustee, should execute and deliver to the trustee of Deep Rock good and sufficient transfers and conveyances of the Refining Company properties. It was conditioned on the approval of a plan of reorganization on or before February 8, 1937.

The new offer eliminated all questionable items in the Standard claim which the trustees and counsel felt were subject to disallowance on their merits.

The amended plan as later modified by the court provides that the new securities of Deep Rock shall consist solely of income debentures and common stock; that the noteholders shall receive $10,000,000.00 of new 6 per cent income debentures, cash in the amount of $1,200,000.00, plus an amount equal to 6 per cent per annum on the principal amount of their notes from January 1, 1937, to the date of the new income debentures, and approximately 7 per cent of the new common stock; that Standard shall receive in full satisfaction of its claim approximately 73 per cent of the common stock; and that the preferred stockholders shall receive approximately 20 per cent of the new common stock.

It will be observed that Standard is wholly eliminated as a creditor and the noteholders and other creditors are to receive cash and the highest ranking security.

Pursuant to the order of November 9, 1936, the reorganization committee furnished to the creditors and stockholders of Deep Rock a complete report on the amended plan of reorganization. It set forth the terms of the amended plan, the differences between it and the original plan, the terms of the new offer of compromise, the tentative appraisal of the trustee and a complete statement of the earnings and financial history of Deep Rock since the announcement of the original

plan in August, 1934. It advised the depositors, both noteholders and preferred stockholders, of their right to withdraw their securities from deposit with the reorganization committee without expense if they did not wish to accept the amended plan or to approve the new offer of compromise.

In the meantime, an independent committee had been organized by the Taylors. On November 16, 1936, the independent committee circularized the owners of preferred stock, urging them to withdraw from their deposits with the reorganization committee and authorize the independent committee to represent them in opposing the approval of the amended plan and new offer of compromise, and stating that such representation would be without individual liability for any expense.

The amended plan was approved by Standard Statistics Company, Inc., and Moody's Investor Service, nationally recognized investment analysts.

The hearing on the amended plan and the new offer of compromise came on before the court on December 12, 1936. The independent committee was permitted to intervene. The court went into the matters thoroughly and exhaustively. Judge Ramsey had testified before the special master at the hearing on the original offer that after deliberate consideration it was his view that the issues of fact and law were so debatable and the ultimate result of the contest so doubtful as to justify acceptance of the original offer of compromise. At the hearing before the court on the amended plan and new offer of compromise Judge Ramsey explained the new offer of compromise and the items that went into it in detail; he stated in substance that under the compromise all fraudulent rental charges and all items contested by the trustee in the Standard claim had been eliminated; that the items that went to make up the Standard claim aggregated in excess of $12,000,000.00; that unless the instrumentality rule should be applied by the courts, the claim would probably be allowed at approximately $6,000,000.00; that Deep Rock was not originally organized as a department or agency of Standard; that each kept separate and distinct corporate records and books; that their assets were never commingled; that the business of Deep Rock was managed and carried on in accordance with the judgment of the local officers at Tulsa, and that they were not dictated to or dominated by Standard; that he entertained serious doubt that the instrumentality rule would be applied by the courts; that he did not think it good judgment "to bet

six or seven million dollars that the courts will uphold the instrumentality rule''; and that it was his judgment after full and deliberate consideration the offer of compromise should be approved.

Counsel for the reorganization committee representing in excess of 80 per cent of the noteholders and 60 per cent of the preferred stockholders in amounts also urged the court to approve the new offer of compromise.

Judge Ramsey has had a long, honorable and distinguished career at the bar. For many years he has been recognized as one of the eminent lawyers of the Southwest. The special master is a lawyer of ability and long experience. For many years he was the head of a leading firm of lawyers at Tulsa, Oklahoma. Counsel for the reorganization committee are counsel of high standing and ability. They were in a position to exercise an unbiased and independent judgment. Plainly the advice and recommendation of such eminent counsel were not lightly to be disregarded. On the contrary, the court was justified in giving great weight thereto in reaching his ultimate determination.

On December 22, 1936, the court entered two conditional orders, one of which approved the compromise of the Standard claim conditioned on the final confirmation of the plan, and the other confirmed the amended plan as modified by the terms of the order, conditioned upon the acceptance of the amended plan as modified, by the holders of the requisite percentage of notes and preferred stock and by Standard.

Following the order of December 22, 1936, the reorganization committee advised the creditors and stockholders of Deep Rock of the modification of the amended plan made by that order and notified the depositors that they could withdraw without expense if they did not wish to accept the amended plan as modified.

On February 3, 1937, Standard, acting under authority of an order of the Delaware court made January 27, 1937, accepted the amended plan as modified.

On February 3, 1937, approximately 20 per cent in amount of the preferred stockholders, acting through the independent committee, had disapproved, and approximately 60 per cent in amount of such stockholders, acting through the reorganization committee, had expressly approved the amended plan

as modified and the new offer of compromise, and the remaining 20 per cent by inaction had tacitly manifested their approval thereof; and 82 per cent of the noteholders had expressly approved such plan and compromise, and no noteholder had objected thereto.

On February 3, 1937, a further hearing was had at which additional objections and testimony were presented by counsel for the independent committee. After the hearing the court entered its final order confirming the amended plan as modified and as a part thereof approved the offer of compromise of the Standard's claim.

The trustee, with the assistance of the Deep Rock technical staff made an appraisal of the physical properties of Deep Rock as of September 1, 1936, and fixed the value thereof at $9,508,848.37. The value as fixed included going concern value, each unit being valued as an integral part of a complete and going concern.

The consolidated balance sheet of October 31, 1936, the value of physical assets included therein being based on the above appraisal, showed the total value of assets, after cash and liquid assets were added and current liabilities deducted to be $16,847,348.37.

O. J. Berend, a qualified expert, checked the methods employed, the factors considered, and the results obtained by the trustee's appraisal and approved the same.

C. J. Smith, a witness called by the independent committee, gave as his opinion that the physical assets of Deep Rock as a going concern had a value of $13,600,000.00. He admitted, however, that he was not qualified to value the producing properties. His estimate was based wholly on the capitalization of current earnings.

The court found that the value of the properties of Deep Rock was not in excess of $17,000,000.00.

Counsel for the independent committee devoted 275 pages of their inordinate brief to the proposition that the Standard claim should be disallowed on the merits.

The independent committee in effect asks us to adjudicate the merits of the Standard claim and then in the light of that adjudication consider retrospectively the action of the court in approving the compromise. In seeking that approach the

independent committee takes no risk. If we should decide adversely to the claim on the merits, then they ask us to disapprove the compromise. If we should decide in favor of the claim on the merits, they are insulated against injury by the compromise agreement. The unfairness of such an approach is manifest. Clearly whether Standard was entitled to the allowance of its claim on the merits is not the issue here presented. That issue was never passed on by the special master or the court. The real issue is whether the plan meets the requirements of Section 77B of the Bankruptcy Act, 11 USCA § 207(b)(e)(f), and is fair and equitable, and whether the court abused its discretion in approving the offer of compromise.

Whether a proposed compromise of a claim against a debtor shall be approved rests in the sound discretion of the trial court. Its action in approving a compromise is presumptively right and, absent a clear showing of an abuse of discretion, will not be set aside on appeal.[3]

We shall consider the merits of the claim only to the extent necessary to determine whether the issues of fact and law were reasonably debatable; whether the claim was so clearly invalid as to afford no substantial basis for a compromise.

The factors to be considered are: The amount of the compromise; the participation of Standard in the new securities under the amended plan as modified; the amount of the probable allowance in the event Standard should succeed in establishing its claim;[4] the participation Standard would be accorded if its claim should be established; the uncertainty of the outcome of the contest over the claim; the time already consumed in litigation of the claim; the time it would probably take to litigate it to final determination; the delay and inconvenience of prolonged litigation; the adverse effect on the in-

[3]Pullman Coach Co. v. Eshelman, 4 Cir., 1 F. 2d 885, 887, 888;
Drexel v. Loomis, 8 Cir., 35 F. 2d 800, 807;
In re Riggi Bros. Co., 2 Cir., 42 F. 2d 174, 176;
Remington on Bankruptcy, Vol. 2, § 1152;
Id., Supp., §§ 1147, 1152.50.

[4]A rescission of the November, 1928, transactions between Deep Rock, Standard and the Refining Company would increase the Standard claim $2,544,591.11 because the Standard would be entitled to a return of the funds advanced by it to acquire the Refining Company properties.

terests of creditors and stockholders of long continued administration of a business by a trustee under the supervision of the court;[4a] that fact that the compromise set aside the only transaction where Standard control resulted in the benefit to Standard and detriment to Deep Rock and eliminated all doubtful and debatable items from the claim; and the fact that more than 60 per cent in amount of the preferred stockholders and 82 per cent in amount of the noteholders, after being fully informed of the relevant facts, approved the compromise and only slightly in excess of 20 per cent in amount of the preferred stockholders opposed it.

Judicial precedents have not yet defined the instrumentality rule with a degree of certainty that it can be applied as a precise yardstick in the admeasurement of legal rights.[5]

As stated by Mr. Justice Cardozo in Berkey v. Third Ave. Ry. Co., 244 N. Y. 84, 155 N. E. 58, 61:

> "The whole problem of the relation between parent and subsidiary corporations is one that is still enveloped in the mists of metaphor."

There is respectable authority for the proposition that to justify the application of the instrumentality rule between parent and subsidiary corporation, there must be present in addition to the elements of control through stock ownership and common directorates and officers, elements of fraud or wrongdoing on the part of the parent corporation to the detri-

[4a] A disposition of the Standard claim was prerequisite to the consummation of any plan of reorganization. The contest over the claim had already resulted in long delay in the consummation of reorganization and a continuation of the contest to final adjudication meant much more delay.

[5] Mr. Elvin R. Latty, Professor of Law at the University of Missouri, in his book entitled "Subsidiaries and Affiliated Corporations," after discussing the state of the decisions on the instrumentalty rule, concludes:

"Until we get judicial expressions about the specific policy-factors which are the underlying considerations involved in a decision allowing or refusing to a claimant of a corporation recovery against the parent or other related corporations, the basis of predictability will continue unsatisfactory. So long as the technique resorted to, when recovery is denied, is to assert that a corporation is something separate and distinct from the stockholder, and where recovery is allowed, to assert that the corporation is not separate and distinct when it is so controlled and dominated as to be a mere instrumentality, we may continue to expect confusion. Armed with these two verbally conflicting major premises, any court can reach either result in the typical parent-subsidiary situation and still leave us no nearer enlightenment than before."

ment of the subsidiary and third persons in their relations with the subsidiary.[5a]

Sections 5 and 6 of Powell on Parent and Subsidiary Corporations, in part, read:

"The Instrumentality Rule, in its shortest form, may now be stated:

"So far as the question of control alone is concerned, the parent corporation will be responsible for the obligations of its subsidiary when its control has been exercised to such a degree that the subsidiary has become its mere instrumentality.

"The Instrumentality Rule is recognized in all jurisdictions in this country and our problem therefore is to determine the circumstances which render the subsidiary

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[5a]New York Trust Co. v. Carpenter, 6 Cir., 250 F. 668;
Duffy v. Treide, 4 Cir., 75 F. 2d 17;
Finn v. George T. Mickle Lumber Co., 9 Cir., 41 F. 2d 676, 678;
Wheeler v. Smith, 9 Cir., 30 F. 2d 59, 60;
Majestic Company v. Orpheum Circuit, 8 Cir., 21 F. 2d 720, 724;
In re Watertown Paper Company, 2 Cir., 169 F. 252, 257;
Peckett v. Wood, 3 Cir., 234 F. 833;
Owl Fumigating Corp. v. California Cyanide Co., D.C.Del., 24 F. 2d 718, 719, 720;
Forbush v. Bartley, 10 Cir., 78 F. 2d 805, 808;
McCurdy v. Spokane Western Power & Traction Co., —— Wash. ——, 24 P. 2d 1075, 1083;
Fickling Properties, Inc. v. Smith, —— Fla. ——. 167 So. 42, 43;
Jefferson County Burial Soc. v. Cotton, —— Ala. ——, 133 So. 256, 259;
In re Greenwald's Estate, —— Cal. App. ——, 65 P. 2d 70, 72;
Garvin v. Matthews, —— Wash. ——, 74 P. 2d 990, 992;
Finley v. Union Joint Stock Land Bank of Detroit, 281 Mich. 214, 274 N. W. 768, 769;
Irish v. Bahner, Tex. Civ. App., 109 S. W. 1023, 1025;
Dos Pueblos Ranch & Improvement Co. v. Ellis, —— Cal. ——, 67 P. 2d 340, 342;
See cases cited in Note 6.

In Improvement Company v. Ellis, supra, p. 342, the court said:

"In order to cast aside the legal fiction of distinct corporate existence as distinguished from those who own its capital stock, it is not enough that it is so organized and controlled and its affairs so managed as to make it 'merely an instrumentality, conduit or adjunct' of its stockholders, but it must further appear that they are the 'business conduits and alter ego of one another,' and that to recognize their separate entities would aid the consummation of a wrong."

In Finley v. Land Bank of Detroit, supra, at p. 769, the court quoted with approval from the article of Mr. Ballantine, in 60 American Law Review, p. 19, 28, as follows:

"'But to justify treating the sole stockholder or holding company as responsible it is not enough that the subsidiary is so organized and controlled as to make it "merely an instrumentality, conduit or adjunct" of its stockholders. It must further appear that to recognize their separate entities would aid in the consummation of a wrong.'"

See, also Parent and Subsidiary Corporations, Powell, § 12, pp. 40-54.

an 'instrumentality' within the meaning of the decisions. This is primarily a question of fact and of degree."

"The circumstances rendering the subsidiary an instrumentality. It is manifestly impossible to catalogue the infinite variations of fact that can arise but there are certain common circumstances which are important and which, if present in the proper combination, are controlling. These are as follows:

"(a) The parent corporation owns all or most of the capital stock of the subsidiary.

"(b) The parent and subsidiary corporations have common directors or officers.

"(c) The parent corporation finances the subsidiary.

"(d) The parent corporation subscribes to all the capital stock of the subsidiary or otherwise causes its incorporation.

"(e) The subsidiary has grossly inadequate capital.

"(f) The parent corporation pays the salaries and other expenses or losses of the subsidiary.

"(g) The subsidiary has substantially no business except with the parent corporation or no assets except those conveyed to it by the parent corporation.

"(h) In the papers of the parent corporation or in the statements of its officers, the subsidiary is described as a department or division of the parent corporation, or its business or financial responsibility is referred to as the parent corporation's own.

"(i) The parent corporation uses the property of the subsidiary as its own.

"(j) The directors or executives of the subsidiary do not act independently in the interest of the subsidiary but take their orders from the parent corporation in the latter's interest.

"(k) The formal legal requirements of the subsidiary are not observed."

Counsel for the independent committee assert that ten of the indicia of agency or instrumentality enumerated by Powell

are present in the instant case. We cannot agree with counsel's conclusion; a, b, c, and d are present in the instant case; f, g, i, j, and k are absent; e and h may be said to be fairly debatable.

While Standard brought about the organization of Deep Rock it is plain that Deep Rock was not in its inception a department or instrumentality of Standard so that indicium d becomes of little significance.

The fact that one corporation owns a majority of the stock of another and through its stock control selects from its own directors and officers a majority of all of the directors and officers of the other corporation, without more, does not justify the application of the instrumentality rule.[6]

The parent corporation is the natural source of the subsidiary's credit. Hence, the fact that the parent corporation finances the subsidiary will not render the subsidiary a mere

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[6]Commerce Trust Co. v. Woodbury, 8 Cir., 77 F. 2d 478, 487;
Bee Bldg. Co. v. Daniel, 8 Cir., 57 F. 2d 59, 61;
Texas Company of Mexico, S. A. v. Roos, 5 Cir., 43 F. 2d 1, 15;
In re Fox West Coast Theatres, 9 Cir., 88 F. 2d 212, 228, 229;
Gillis v. Jenkins Petroleum Process Company, 9 Cir., 84 F. 2d 74, 79, 80;
Shepherd v. Banking & Trust Co. of Jonesboro, 6 Cir., 79 F. 2d 767, 769;
Menihan v. Commissioner, 2 Cir., 79 F. 2d 304, 305, 306;
City of Holland v. Holland City Gas Co., 6 Cir., 257 F. 679, 684, 685;
Peterson v. Chicago, R. I. & P. Ry. Co., 205 U. S. 364, 390, 391, 392;
Pullman's Palace Car Co. v. Missouri Pac. Ry. Co., 115 U. S. 587;
Pacific Can Co. v. Hewes, 9 Cir., 95 F. 2d 42, 46;
Kentucky Electric Power Co. v. Norton Coal Mining Co., 6 Cir., 93 F. 2d 923, 926.

In Kentucky Electric Power Co. v. Norton Coal Mining Company, supra, the court said:

"On the other hand, it is likewise well settled that a corporation is ordinarily an entity, separate and apart from its stockholders, and mere ownership of all the stock of one corporation by another, and the identity of officers of one with officers of another, are not alone sufficient to create identity of corporate interest between the two companies or to create the relation of principal and agent or to create a representative or fiduciary relationship between the two. If such stock ownership and potential control be resorted to only for the purpose of normally participating in the affairs of the subsidiary corporation in a manner usual to stockholders and not for the purpose of taking some unfair advantage of the subsidiary or using it as a mere adjunct to the main corporation or as a subterfuge to justify wrongdoing, their identity as separate corporations will not be disregarded but their respective rights when dealing with each other in respect to their separate property will be recognized and maintained. The extent of stock ownership and mere potential control of one company over another has never been regarded as the determining factor in the consideration of such cases. Something must be disclosed to indicate the exercise of undue domination or influence resulting in an infringement upon the rights of the subservient corporation for the benefit of the dominant one. Otherwise, the rights of the separate corporations in respect to their corporate property must be governed by the rules applicable in ordinary cases."

instrumentality of the parent, although stock ownership and common personnel are also present.[7]

Criticism is leveled at three dividends declared on the common stock of Deep Rock in the years 1926, 1928, and 1930, and credited to Standard. A sufficient answer is that the evidence shows actual earnings available therefor at the times these dividends were declared and furthermore their payment by a Delaware corporation was justified under the wasting asset rule.[8]

Where corporate control by the parent over the subsidiary through stock ownership and the election of directors and officers is exercised in the manner normal and usual with majority stockholders, distinct corporate entity should be recognized.[9] Where, however, the relations between parent and subsidiary are so intimate, the control of the former over the latter so dominating, and the business and assets of the two so commingled, that the recognition of distinct entity will result in wrong or injustice to third persons, courts should look through the fiction of distinct entity and deal with the situation as justice requires.[10]

Having in mind the uncertainty with respect to the instrumentality rule and its application to particular facts, that Deep Rock was not organized as a department of Standard, that the two corporations were engaged in wholly unrelated

[7] Owl Fumigating Corp. v. California Cyanide Co., D.C.Del., 24 F. 2d 718, 720;
Peterson v. Chicago, R. I. & P. Ry. Co., 205 U. S. 364, 393;
City of Holland v. Holland City Gas Co., 6 Cir., 257 F. 679, 684;
Parent and Subsidiary Corporations, Powell, p. 11.

[8] Fletcher's Cyc. of Corporations, Perm. Ed., Vol. 11, § 5347;
General Corporation Act of Delaware, § 34;
Wittenburg v. Federal Mining & Smelting Co., 15 Chanc. (Del.) Rep. 351, 138 Atl. 352.

[9] United States v. Reading Company, 253 U. S. 26, 62, 63;
Chicago, M. & St. P. Ry. Co. v. Minneapolis C. & C. Ass'n, 247 U. S. 490, 501.

[10] See cases cited in Note 5a;
Fletcher's Cyc. of Corporations, Perm. Ed., Vol. 1, § 43;
Parent and Subsidiary Corporations, Powell §§ 7, 12.

See New York Trust Co. v. Carpenter, 6 Cir., 250 F. 668, 673, 674-676, where the court said:

"Whatever 'adjunct' may mean in this connection, it must, to be applicable at all, be given a new definition, involving the idea of sinister purpose or wrongful results. If it means agency or instrumentality in the sense of means to effect wrong, or through which wrong is done, we would be content with it. But it is a word too uncertain in meaning to be incorporated into an inexorable rule of law as an exception to a just rule long established unless qualified in such a way as to cover the kind of cases to which it was intended to apply; cases in which adherence to the doctrine of the separate and distinct entity of a corporation would work injustice."

businesses, that each kept separate and distinct corporate records and books, that their assets were not commingled, that setting aside the only transaction where Standard control resulted in benefit to Standard and detriment to Deep Rock would increase rather than decrease the claim, that the other transactions between the two corporations resulted in benefit to Deep Rock and hence in no injury to the preferred stockholders, that the local officers of Deep Rock had a large part in the management of its operations and affairs, and that eminent counsel for the trustee and the learned special master believed the issues of fact and law debatable and recommended approval of the compromise, we cannot say the result of the contest over the claim was not so doubtful or the claim itself so devoid of merit as to form no reasonable justification for the compromise. Each of the other pertinent factors afforded strong support for the court's action in approving the compromise.

The fairness of the plan is attacked on the ground of the alleged improper approval of the compromise of the Standard claim and a challenge of the correctness of the appraisal.

On an appeal from a confirmation of a plan the review is limited to the issues of law.[11] A finding of value is a finding of fact.[12]

The finding of value by the trial court is clearly supported by the evidence. The appraisal was made by the trustee, assisted by the technical staff of the Deep Rock organization, and was approved after a careful check by an independent expert, Mr. Berend. There was no showing that in making the appraisal any pertinent factor was disregarded. Due consideration was given to going concern value. The court was entitled to accept and act on such appraisal. In re Consolidation Coal Company, D.C.Md., 11 F. Supp. 594, 597.

The sole proof offered by the independent committee attacking the appraisal was that of Mr. Smith who frankly admitted he was not qualified to appraise the value of the producing properties. His appraisal was based solely on cap-

[11]Meyer v. Kenmore-Grandville Hotel Company, 297 U. S. 160, 166; Campbell v. Alleghany Corporation, 4 Cir., 75 F. 2d 947, 955; In re 620 Church Street Corporation, 299 U. S. 24, 27.

[12]In re Pittsburgh Hotels Corporation, D.C.Pa., 17 F. Supp. 949, 952; In re 620 Church Street Corporation, supra.

italization of earnings and on an arbitrary allowance for depletion demonstrably inadequate.

If, as we have held, the compromise of the Standard claim was properly approved, then it, together with the indebtedness due the noteholders, was in excess of the valuation of the assets of Deep Rock.

Since the aggregate of the allowable claims of creditors exceeded the fair value of the assets of Deep Rock a plan under which the preferred creditors received 20 per cent of the common stock, Standard, a creditor, 73 per cent of the common stock, and the noteholders, creditors, 7 per cent of the common stock, was manifestly not unfair to the preferred stockholders.

The orders appealed from are accordingly Affirmed.

Williams, Circuit Judge, concurring:

I concur with the conclusion reached by Circuit Judge Phillips to affirm the orders of the trial court, but in so doing, it is not to be understood that I express any opinion as to whether the Deep Rock Oil Corporation was an instrumentality of the Standard Gas and Electric Company.

The Special Master found that the factual and legal issues were debatable; that the compromise was fair; that its acceptance was for the best interest of the estate, and recommended its approval.

For a number of years he was solicitor for the Interior Department in Washington, D. C., the same position formerly held by the Honorable Willis Van Devanter, Justice of the Supreme Court of the United States. He is also a former President of the Oklahoma Bar Association, and one of the leading lawyers of the state.

The attorney for the trustee is a former member of the Supreme Court of Oklahoma, also a former President of the Oklahoma Bar Association, and one of the leading lawyers of the state.

In oral argument before the *the* court on this hearing, he stated that in his opinion the factual and legal issues were debatable and that caused him to recommend that the proposed compromise be accepted. The trial court approved same.

Section 77B was enacted in legislation to rehabilitate business.

No fraud appears in the record.

I conclude that the orders of the lower court should here be affirmed.

Bratton, Circuit Judge, dissenting:

The allowance of the claim of Standard in the sum of approximately $5,000,000, and the approval of the plan of reorganization with the claim included as a liability were challenged in the court below and the contentions are renewed here. Appellants argue in connection with the first contention that at all material times Deep Rock was a mere agent, department, or instrumentality of Standard, and hence the latter cannot assert a claim for any amount in this proceeding.

Standard and Deep Rock are separate corporate entities, but it is well settled that the fiction of corporate entity should be disregarded when it is necessary to circumvent fraud or uproot a harbor for wrong. Boatright v. Steinite Radio Corp., 46 F. (2d) 385; Maloney Tank Mfg. Co. v. Mid-Continent Petroleum Corp., 49 F. (2d) 146; Dunnett v. Arn, 71 F. (2d) 912.

Standard owned approximately ninety-eight per cent of the common stock of Deep Rock. That fact alone and apart from other considerations is not enough to warrant the disregard of their separate juridical entities, or to render Deep Rock the agent, department, or instrumentality of Standard. But where the ownership of stock is not used and employed for the purpose of participating in the affairs of the corporation in the normal and usual manner, but for the purpose of dominating and controlling it in such way and to such extent that it becomes the mere agency or instrumentality of the parent corporation, courts disregard the fact that they are separate corporate beings and treat the subsidiary as the agent or instrumentality of the parent. United States v. Lehigh Valley R.R. Co., 220 U. S. 257; United States v. Delaware, Lackawanna & Western R. R. Co., 238 U. S. 516; Chicago M. & St. P. Ry. v. Minn. Civic Ass'n, 247 U. S. 490; United States v. Reading Co., 253 U. S. 26; Centmont Corporation v. Marsch, 68 F. (2d) 460.

A parent corporation may not assume the position of credit-

or and assert a claim in bankruptcy against its subsidiary which has been dominated and controlled as a mere adjunct, department, or instrumentality, since the assertion of a claim in such circumstances amounts to the presentation of a claim against itself in fraud of bona fide creditors. Forbush Co. v. Bartley, 78 F. (2d) 805; Clere Clothing Co. v. Union Trust & Savings Bank, 224 F. 363; E. E. Gray Corporation v. Meehan, 54 F. (2d) 223; Centmont Corporation v. Marsch, supra; In re Kentucky Wagon Mfg. Co., 71 F. (2d) 802.

There was a league of corporations in this instance. Byllesby was the parent, and the others were subsidiaries, affiliates, and associates. In 1921 Shaffer parted with his interest in Shaffer Oil and Refining Company—subsequently changed in name to Deep Rock—and thereafter Standard owned virtually all of its common stock. The extent of common directors in Byllesby, Standard, Engineering and Management, and Deep Rock in the years 1923 and 1928 appears in the last in the margin.[1] These years are fairly representative of other years from 1921 to 1933, inclusive. All of the officers of Deep Rock

[1]

| Byllesby and Co. Directors | Standard Directors | Engineering and Management Corp. Directors | Deep Rock Directors |
|---|---|---|---|
| | 1923 | | |
| H.M.Byllesby | H.M.Byllesby | H.M.Byllesby | H.M.Byllesby |
| ..... | ..... | ..... | G.N.Moore |
| R.J.Graf | R.J.Graf | R.J.Graf | R.J.Graf |
| A.S.Huey | A.S.Huey | A.S.Huey | A.S.Huey |
| J.J.O'Brien | J.J.O'Brien | J.J.O'Brien | J.J.O'Brien |
| ..... | ..... | ..... | W.R.Francisco |
| ..... | F.W.Stehr | ..... | F.W.Stehr |
| ..... | J.H.Briggs | ..... | J.H.Briggs |
| H.C.Cummins | H.C.Cummins | H.C.Cummins | H.C.Cummins |
| M.A.Morrison | M.A.Morrison | M.A Morrison | M.A.Morrison |
| ..... | B.W.Lynch | B.W.Lynch | B.W.Lynch |
| ..... | ..... | ..... | R.K.Huey |
| ..... | ..... | ..... | W.H.Cannady |
| A.S.Cummins | A.S.Cummins | A.S.Cummins | A.S.Cummins |
| | 1928 | | |
| J.J.O'Brien | J.J.O'Brien | J.J.O'BBrien | J.J.O Brien |
| R.J.Graf | R.J.Graf | R.J.Graf | R.J.Graf |
| ..... | J.L.Gray | ..... | J.L.Gray |
| M.A.Morrison | M.A.Morrison | M.A.Morrison | M.A.Morrison |
| H.C.Cummins | H.C.Cummins | H.C.Cummins | H.C.Cummins |
| A.S.Cummins | A.S.Cummins | A.S.Cummins | A.S.Cummins |
| ..... | ..... | ..... | W.R.Francisco |
| J.H.Briggs | J.H.Briggs | J.H.Briggs | J.H.Briggs |
| B.W.Lynch | B.W.Lynch | B.W.Lynch | B.W.Lynch |
| ..... | ..... | ..... | R.K.Huey |
| ..... | F.W.Stehr | ..... | F.W.Stehr |
| ..... | ..... | ..... | L.B.Riddle |
| R.G.Hunt | R.G.Hunt | R.G.Hunt | R.G.Hunt |
| ..... | O.G.Corns | ..... | O G.Corns |
| J.H.Roemer | J.H.Roemer | ..... | J.H.Roemer |

for the years 1923 to 1932, inclusive, were likewise officers of Standard for the same years, with the exception of Riddle, Moody, Francisco, Kennedy, Dale, and Kerr. Standard elected all of the directors of Deep Rock from 1921 to 1932. Meetings of the board of directors were held at the rate of about one per month. Although the operations of Deep Rock were in Oklahoma, all meetings of the board of directors were held in the office of the president of Standard in Chicago; and the minute books of the meetings were kept in that city. The meetings were not merely consultative in character. Instead, all fiscal matters and matters of policy were fixed and determined at them. No important policies were determined and no substantial expenditures were agreed upon without the approval of the president and vice-president of Standard. Cummins was associated with Byllesby for a number of years; he was a director of Standard for fifteen or twenty years; and he became vice-president and general manager of Deep Rock. Standard employed Gray and sent him to Oklahoma to make a report on the property of Deep Rock. He later became president of Deep Rock. The president of Standard made the contract with Gray under which his salary as president was fixed at $36,000 per year plus a share in the profits. Standard approved the employment of Riddle and he later became vice-president in charge of production. Standard dictated and dominated the transaction in which the Bradstreet properties were conveyed to Kennedy, as trustee; and he was trustee for Standard. In like manner, Standard dictated and dominated the transaction relating to the cracking plant; and Graf was trustee for Standard. The board of directors of Deep Rock did not take any action authorizing or otherwise concerning either transaction, and its officers had scant knowledge of the facts. In addition to the manner in which titles were transferred and vested, Deep Rock was required to pay seventy-five thousand dollars per month for three months and fifty thousand dollars per month thereafter under the subterfuge of rentals, all of which reached Standard. Entries on the books of Deep Rock purporting to reflect the transfer to Standard of the corporate stock of Refining Company were subserviently made in conformity with direction of Standard.

Standard furnished large sums of money which Deep Rock needed from time to time in the operation of its business during the period in question. Some of it was used to liquidate obligations, some was deposited in bank to the credit of Deep

Rock, and some was used for other purposes. The account on which claim is founded covers a period from 1919 to 1933. It embraces charges aggregating more than fifty-two million dollars, and credits exceeding forty-three million dollars. It discloses that the cash advanced by Standard to Deep Rock during that period was more than seventeen million dollars; that advanced for interest on funded debt exceeded three millions; that advanced for sinking fund requirements exceeded three millions; that advanced with which to pay a note of Deep Rock which Standard had discounted was more than two hundred thousand dollars; that advanced for interest on note of Deep Rock was approximately fifty thousand dollars; that advanced for payment of dividends on preferred stock of Deep Rock owned by the public was approximately two and a half million dollars, while that advanced for payment of dividends on common stock was more than a hundred thousand dollars; that advanced for redemption of the eight per cent notes of Deep Rock due in 1941 was about two hundred and fifty thousand dollars; that advanced for federal income taxes of Deep Rock Refining Company was about thirty thousand dollars; that advanced for payment of a note of Deep Rock due Continental National Bank and Trust Company was almost four hundred thousand dollars; that advanced for the purchase of preferred stock of Utility and Industrial Corporation—purchased for Deep Rock—was more than two hundred and seventy-five thousand dollars; and that advanced (by book entries) for payment of compensation for services rendered by Byllesby in procuring deposit of Shaffer notes under an extension agreement was more than one hundred and forty thousand dollars. In addition, the charge made for interest on notes receivable was more than one hundred and eighty thousand dollars; and the charge made for interest on five-year six per cent notes of Deep Rock owned by Standard was more than three hundred and thirty thousand dollars. The debits representing dividends on preferred stock of Deep Rock owned by Standard was slightly more than a million and a half dollars; and the debits representing dividends on common stock exceeded a million and nine hundred thousand dollars. Finally, the charge for cash advanced as sundry expenditures was more than a million dollars. Credits were made from time to time. They exceeded forty-three million dollars, and reduced the balance due according to the face of the account to $9,342,642.37—the amount of the original claim. Virtually all of the transactions between

the two corporations were evidenced solely and exclusively by debits and credits on the books. Many other pertinent facts appear in the long record before us, but it would not serve any useful purpose to detail them.

The question whether a proposed compromise of a disputed claim against a debtor shall be approved rests very largely in the sound discretion of the trial court, and its action should not be disturbed on appeal in the absence of a clear showing of the improper exercise of such discretion. But here the facts and circumstances and the inferences reasonably and fairly to be drawn from them, considered together, convince me that at all times after C. B. Shaffer made disposition of his interest in 1921 Standard owned virtually all of the common stock of Deep Rock; that Standard elected the directors of Deep Rock from year to year; that the directors of Deep Rock who were not directors of Standard, and the officers and agents of Deep Rock were plainly biddable and subservient to Standard in every respect and were without any measure of independence or freedom; that while Deep Rock was not organized in the first instance as an agency, department, or instrumentality of Standard, that relationship was assumed in 1921 and it was continued until the intervention of receivership in 1933; that Standard took advantage of the relationship thus existing in effecting the transactions concerning the Bradstreet property and the cracking plant; that such transactions were not effected for the benefit of Deep Rock; that the interest of Standard was the dominant motive; that Standard was very substantially enriched through them and they constituted unjust infringement upon the rights of Deep Rock; and that the allowance of the claim in any sum amounts to Standard asserting a claim against itself in legal fraud of others having interest in Deep Rock. Advancements made in these circumstances do not constitute an indebtedness which can be asserted as a claim in a bankruptcy proceeding. Forbush Co. v. Bartley, supra; E. E. Gray Corporation v. Meehan, supra; Centmont Corporation v. Marsch, supra; In re Kentucky Wagon Mfg. Co. supra.

Whether a proposed plan of reorganization shall be approved rests in large measure in the sound judicial discretion of the trial court. But assuming that the claim of Standard should not have been allowed in any sum, it follows as the night the day that the approval of this plan with the untenable claim

included as a liability of the corporation constituted a grave prejudice to the rights of others in interest.

It is respectfully submitted that the claim should have been disallowed in toto; that the proposed plan of reorganization with the claim included should have been disapproved; and that for these reasons the orders should be reversed.

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(Decree.)

Seventh Day, April Term, Wednesday, April 27th, A. D. 1938. Before Honorable Robert E. Lewis and Honorable Orie L. Phillips, Circuit Judges.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Oklahoma and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged and decreed by this court that the decrees of the said district court in this cause be and the same are hereby affirmed; and that Standard Gas and Electric Company et al., appellees, have and recover of and from John M. Taylor, Oscar A. Kennedy, H. Russel Hastings, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Interveners, appellants, their costs herein.

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# United States Circuit Court of Appeals

TENTH CIRCUIT

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No. 1545

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JOHN M. TAYLOR, ET AL., *Appellants,*

*vs.*

STANDARD GAS AND ELECTRIC COMPANY, ET AL., *Appellees*

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APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OKLAHOMA

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## PETITION FOR REHEARING

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TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE TENTH CIRCUIT AND THE JUDGES THEREOF:

Now come John M. Taylor, Oscar A. Kennedy and H. Russell Hastings, as the Independent Committee for the protection of the holders of preferred stock of the Deep Rock Oil Corporation, Interveners and Appellants in the above cause, Petitioners herein, and herewith petition this Honorable Court for a re-hearing of the above-entitled cause, decision having been rendered herein under date of April 27, 1938, and in support thereof, show unto this Honorable Court the subject matter hereinafter set forth.

## I.

### THE MAJORITY OPINIONS ERRONEOUSLY REFUSE TO ADJUDICATE THE INVALIDITY OF THE STANDARD CLAIM

We respectfully urge to this Court that in refusing to adjudicate the merits of the claim of the Standard Gas and Electric Company, this Court has committed a grave error of law and has rendered a great injustice to the public holders of preferred shares of the Debtor Corporation. Mr. Justice Phillips states in his opinion that, "clearly whether Standard was entitled to the allowance of its claim on the merits is not the issue here presented" (pp. 17-18). Mr. Justice Williams likewise asserts in his opinion: "It is not to be understood that I express any opinion as to whether the Deep Rock Oil Corporation was an instrumentality of the Standard Gas and Electric Company" (26).

Both majority opinions disclose that they rely heavily on the eminence and integrity of Counsel for the Trustee and the Special Master. For purposes of this record, we can have no quarrel with such personal evaluations. We desire to point out, however, that such reliance on personal integrity should not be held to foreclose the rights of Deep Rock's preferred shareholders. The issues presented to this Court with reference to the validity of the Standard claim are issues of law, inasmuch as the facts of this case are substantially uncontroverted. Certainly on questions of law, the opinions of these individuals should not be permitted to be substituted for the judgment of this Court.

That these individuals are subject to mistaken judgments the same as other individuals should require no argument. The best proof that these same individuals upon whom the Court now relies so heavily are fallible in their judgments is to be found in the very history of the instant case. The District Court *rejected* the approval by the Special Master and Counsel for the Trustee of the first compromise proposal. It is not to be lost sight of that, at the time of the first compromise proposal, all of the proofs on the merits of

the Standard claim had already been submitted to the Special Master and proofs were closed. On that evidence, the Special Master recommended the approval of the compromise allowance of the Standard claim upon its presentation and recommendation by Counsel for the Trustee (I-105, 107, 164-207). After lengthy hearings and months of consideration, the District Judge, in the exercise of his mature and deliberate judgment, determined that the judgments of the Special Master and the Counsel for the Trustee in recommending the compromise were erroneous. The Honorable District Judge sustained the objections of the preferred shareholders to the Special Master's report and thereupon rejected the compromise allowance of the Standard claim (I-244-5).

In so doing, the District Judge did not even indicate that he had any serious doubts on the subject. On the contrary, he stated:

> *"I am thoroughly convinced * * * my conscience wouldn't let me approve this compromise * * * the evidence is overwhelming the Standard ran this company: they officered it, they capitalized it; it is just a child in their hands and if there ever was a case the law is clear on, it is nothing in the world but an instrumentality according to the admissions. * * * If you cannot reach a settlement I will enter an order denying the claim on the ground that the instrumentality rule applies."* **(II-406-7.)**

In the judgment which the District Judge so rendered, he unequivocally adjudicated that, despite their high standings, both the Special Master and Counsel for the Trustee were in error in recommending the compromise. *For this Court now to base its judgment on the discredited opinions of the Special Master and Counsel for the Trustee is wholly unwarranted.*

Moreover if this court is to give full credence to the judgment and opinion of the Counsel for the Trustee, it should also take into account his own considered statements

made in the District Court after all of the proofs on the merits of the Standard claim had been submitted. Judge Ramsey there said:

> "Now there isn't any doubt that the Standard has manhandled this Deep Rock. As Lord Brougham once said: 'It was the proud boast of Augustus that he found a Rome of brick and left it of marble.' *The Standard found the Deep Rock an unsophisticated country maiden and left it a harlot. There isn't any doubt but what the Standard has absolutely manhandled the Deep Rock* • • •" (II-403).

In pointing out that this Court must not permit the judgment of these individuals to be a substitute for its own determination of the issues of law here involved, we have no desire to be captious or unduly critical. The question of the validity or invalidity of the Standard claim is one that affects the investment made by over sixteen hundred public holders of preferred shares of the Debtor Corporation scattered throughout the country. To these trusting investors, it is of the utmost importance that a proper determination be made of the validity or invalidity of the Standard claim.

It is very well for Appellees to urge and for this Court to repeat that the approval of a compromise claim is a matter of judicial discretion. This Court must recognize, however, that ***the exercise of a discretionary power in contravention of legal rights is wholly unwarranted under the law. If, as a matter of law, Standard has no valid claim, the compromise allowance of a substantial claim cannot be sustained as an exercise of judicial discretion.*** It is not within the exercise of any judicial discretion to allow a claim where, in fact and law, no claim exists.

Cases have been cited to this Honorable Court in support of the proposition that the approval of a compromise is a matter of judicial discretion. It is important to note, however, that in each case the propriety of the exercise of that discretion has been dependent upon the facts and circumstances of the particular case. We respectfully ask this

Court to note that *in no case cited has a compromise allowance of a claim been permitted under circumstances comparable to the instant case.* In no case has a claim been allowed by mere compromise where, as here, the following circumstances were present:

(1) The proofs in the hearings on the merits of the claim had already been fully completed;

(2) The proofs were substantially uncontradicted and the issue of the validity of the claim became primarily an issue of law;

(3) The claim was not such as appears in the usual course of business but, on the contrary, involved intercorporate dealings between a parent company and its subsidiary, with debits and credits running over a period of many years supported by nothing more than the self-serving dictations of a single management;

(4) The common directorate of the claimant and the Debtor required, as a matter of law, the application of the principle that the claim is presumptively a fraudulent one;

(5) The claim so contested was not a clearly valid one but on the contrary, one open to very serious question and grave doubt;

(6) Because there was a purported equity in the assets of the Debtor of only five million dollars out of which Standard and the preferred shareholders could share, it made no difference whether Standard's claim was allowed at its alleged amount of nine million dollars or only for five million dollars, since the result of either disposition would wipe out the preferred shareholders and give Standard all of the remaining equity in the Debtor Corporation's assets;

(7) No time could conceivably be saved by compromising the claim as against adjudicating it on its merits;

(8) An opinion had already been expressed by the District Judge, holding that there was no valid claim whatsoever;

(9) The equity of a five million dollar class of public securityholders was being eliminated by the compromise for the benefit of Standard, whose claim had never been actually adjudicated as valid.

These and many other circumstances discussed in our original briefs require, we submit, a recognition by this Court that this is not just the ordinary case of compromise that can be dismissed with the assertion that it was an exercise of judicial discretion. The question of the validity of the Standard claim is too seriously in dispute and the result of a legal adjudication of that issue is of too much importance to the innocent securityholders to be so lightly dismissed.

The test of the provability of any claim in Section 77-B proceedings must be that approved by Mr. Justice Chase in the case of *In Re United Cigar Stores Company of America*, 82 Fed. (2) 247 (C. C. A. 2, 1936), when he says:

> "The test of provability is the actual existence of a valid claim."

We do not claim that the public preferred shareholders cannot be eliminated if the assets of the Debtor Corporation are only sufficient to pay the claims of *valid* creditors. We do maintain, however, that *by nothing less than "the actual existence of a valid claim" should these preferred shareholders be deprived of their investment.* In a situation such as this, where the validity of the Standard claim is open to such serious question, no Court should assume to eliminate a five million dollar group of public securityholders without, at least, a legal determination that such an elimination is required by reason of the existence of actually legal valid claims in an amount equal to or exceeding the value of the assets of the Debtor Corporation.

Such a legal determination is all the more requisite where, as here, all of the evidence points to the actual invalidity of that claim. No Judge or Special Master has, as yet, adjudicated that the Standard claim is legally allowable *on its merits*

in any amount whatsoever. On the contrary, *on the only two occasions when the question of the validity of the Standard claim was passed upon, it was held that the claim was in its entirety an invalid one and not allowable as a matter of law.* Such was the holding of the Honorable District Judge at the only time he expressed an opinion on the subject, a portion of which opinion was hereinbefore quoted. Such, too, was the decision of Mr. Justice Bratton who was the only member of this Court who purported to pass upon the question of the "actual existence of a valid claim".

The importance of the determination of whether or not Standard's claim is actually a legally valid one is all the more accentuated by reason of the fact that the fairness of the Plan of Reorganization is expressly grounded by its terms and by the determination of this Court on the assumption of the existence of a valid claim by Standard in the amount of five million dollars. *While, on the one hand, the finding of fairness of the Plan is justified by this Court by reason of the existence of a valid claim, yet, on the other hand, the Honorable Members of the Majority refuse to pass upon the validity of that claim.* We respectfully submit that upon reconsideration, this Court should not permit such an incongruous result.

We know that the Members of this Court have no desire to shirk their responsibility of adjudicating issues before them. However, we respectfully submit that the majority of this Court is in error when it asserts that it is not required to pass upon the validity of the Standard claim. In so doing, *the Honorable Members of the Majority overlook the fact that the effect of their refusal to adjudicate the validity of the Standard claim, while at the same time upholding the compromise, is actually an adjudication that Standard has a valid claim for five million dollars.*

To approve such a compromise allowance is to defeat the preferred shareholders without even a legal adjudication that they have no rights. Such a compromise effectively deprives preferred shareholders of their day in Court. It is

not too much to say that such a compromise is a deprivation of the property of the preferred shareholders without due process and in contravention of the safeguards of liberty, equality and due process contained in the Constitution of the United States. We trust that the Honorable Majority Members of this Court, when faced with the realization that their approval of the compromise necessarily adjudicates the validity of the Standard claim, will meet squarely their responsibility of considering and deciding the validity of the Standard claim. If the Standard claim is to be allowed, it must meet the "test of provability" by an adjudication of "the actual existence of a valid claim". We respectfully submit that the opinion of Mr. Justice Bratton meets squarely the issue necessarily before the Court on the question of the validity of the Standard claim and should receive approval by the Honorable Members of the Majority.

## II.

## THE MAJORITY OPINIONS OVERLOOK SALIENT UNDISPUTED FACTS AND AUTHORITATIVE DECISIONS OF LAW IN APPROVING THE COMPROMISE ALLOWANCE OF THE STANDARD CLAIM

### A. The majority opinions overlook matters requiring denial of the entire Standard claim upon application of the Instrumentality Rule.

We shall make no attempt to repeat our discussion on the invalidity of the Standard claim by reason of application of the Instrumentality Rule. We desire merely to point out certain inconsistencies in the Majority opinions as well as a few of the material factors which those opinions apparently overlook.

#### 1. Refining Company Transactions.

The Majority opinions overlook the significance of the Refining Company transactions as conclusive evidence of Standard's utter and wrongful domination and control of

the Debtor Corporation within the principles requiring application of the Instrumentality Rule in the denial of Standard's claim. Mr. Justice Bratton is not alone in finding overreaching by Standard in connection with the Refining Company transactions. The opinion of Mr. Justice Phillips likewise finds that in these transactions "Standard exercised its control to the benefit of Standard and to the detriment of Deep Rock" (p. 6). Mr. Justice Williams presumably relies upon the findings of the Counsel for the Trustee, who, in the course of these proceedings, testified in regard to the Refining Company lease:

> "I think the lease is an unconscionable lease. I would call it a fraudulent lease. I think it was a fraud on the Deep Rock." (II-391).

*The significance of this unanimous version of the Refining Company transaction lies in the fact that the transaction is rather a continuing series of transactions and not merely an isolated instance of wrongful conduct on the part of Standard in its handling of Deep Rock.* It is to be remembered that the Refining Company transactions commenced in 1923 and extended for a period of ten years thereafter until the time of the Debtor's receivership. Not only were the Refining Company transactions a series of continuous wrongdoings for a period of approximately ten years, but the amounts of which Deep Rock was thereby deprived for Standard's benefit totalled many millions of dollars. The Refining Company rentals included in the Standard claim against Deep Rock, the charges for income taxes paid for the Refining Company, as well as compounded interest charges on the fraudulent indebtedness so foisted on Deep Rock, total in the neighborhood of six million dollars.

Such a transaction cannot be classified as a single and isolated instance of wrongdoing. It was wrongdoing extending throughout the greater period of the history of the Debtor Corporation's existence. It was wrongdoing in 1923, when Deep Rock assets were without consideration deeded to the nominees of Standard, R. J. Graf and J. C. Kennedy.

It was wrongdoing in 1925, when these properties were acquired by Standard through its fraudulent acquisition of the Refining Company stock upon direction of the Standard management and without opposition or complaint by the Deep Rock officers. It was wrongdoing in 1926, when Standard caused Deep Rock to lease its own properties from the Refining Company through a lease signed by Standard's own employees who, at the same time, were unsalaried officers of Deep Rock. It was wrongdoing in 1926 and 1927, when Standard charged the Refining Company's income taxes to Deep Rock although there was no possible rhyme or warrant for such a charge even within the terms of the lease. It was wrongdoing in 1930, when the renewal of that lease was dictated by Standard at the same extortionate terms, although the record of operations under the prior lease had already resulted in tremendous losses to the Debtor Corporation. It was gross and fraudulent domination in 1923, in 1926, and again in 1930, when the creation of the Refining Company and the execution of the leases were admittedly not even submitted for approval to the Board of Directors of either the Debtor Corporation or the Refining Company.

These and many other phases of wrongdoing in connection with the Refining Company transactions can scarcely be said to be an isolated instance of wrongdoing. It was a continuous wrongdoing and fraudulent domination which inevitably stamps the relationship between the Debtor and Standard as that between a subservient subsidiary and its dominating parent. Under such circumstances, the Instrumentality Rule, if it is to mean anything at all, must be applied in denying to the parent company the status of a creditor upon the bankruptcy or insolvency of the subsidiary.

*Where a series of transaction of such size and importance as the Refining Company transactions are unanimously adjudged by this Honorable Court to have been wrongfully imposed by abuse of the parent company's control over its subsidiary, then the refusal of the majority of this Court to*

*hold invalid the entire Standard claim is wholly unwarranted. Such refusal amounts to a rejection of the fundamental principles of the Instrumentality Rule as consistently recognized, not only by the United States Supreme Court and other Appellate Courts, but by this Honorable Court as well.*

In the course of the opinion of Mr. Justice Phillips there appear a series of statements with reference to the details of the Refining Company transactions that indicate a mistaken notion of what actually took place. Rather than to attempt a seriatim correction of these misconceptions, we respectfully refer to our discussion of the Refining Company transactions in our original Brief (pages 143-190), setting forth the undisputed facts with reference to these transactions. We respectfully submit that a full understanding of the significance of the Refining Company transactions necessarily requires an adjudication of the invalidity of the Standard claim upon application of the Instrumentality Rule.

**2. Management Company Charges.**

The supervision fees of the Byllesby Engineering and Management Company of over $1,200,000 included in Standard's account against Deep Rock were shown in our Brief to be entirely fraudulent and unwarranted. The opinions of the Honorable Majority Members make no comment with reference to these charges. We shall make no attempt to repeat the argument in our original brief on this score (Brief, pp. 118-121, 190-201, 286-290). We desire merely to point out the indisputable admission made by Standard in its stipulation herein when it admits:

> "That there was never submitted to any meeting of the Deep Rock's Board of Directors or approved by Deep Rock's Board of Directors any contract whereby it obligated itself to pay the Engineering and Management Company fees or charges for management or finance services or any kind of services." (II-244)

Apparently this Court has likewise overlooked the characterization of these management charges by Judge Ramsey, when he said:

> "This Management Corporation, that is the same thing Congress has had in this Holding Company bill * * * Just like all these other public utilities were doing, the purpose is to make a fictitious overhead charge on public utilities in order to maintain their rates. Now this Management Corporation, the Standard owned all of its stock, said so in its annual reports. It received from that company over $23,000,000 in dividends, and the Engineering Company never had any assets except pencils and drawing tools, and this Deep Rock Company made one hundred and ninety-two million and some odd dollars in thirteen years, and its net profits was a little over ten million. Now that on its face shows that it has been manhandled. Talk about a corporation making one hundred ninety-two million plus in ten years and having only ten million dollars plus in net profits. That on its face shows it has been run in a harum scarum way." (II-406).

*These management charges are again not isolated instances of wrongdoing but an accumulation of wrongful charges running throughout the major portion of the Debtor's existence and demonstrating beyond question the subserviency of the Deep Rock officers to the domination of Standard.*

**3. Illegal Interest and Discount Charges.**

The Majority Opinions make no comment about the admitted fact that the Standard claim includes over $6,000,000 of interest and discount charges. The interest charges on the open account which constitute the major portion of this amount were admittedly arrived at by usurious monthly compounding on average daily balances throughout the period of the Debtor's existence, without any complaint or objection by the Debtor's officers. Again we see the inevitable evidence of complete subserviency of the Debtor to the domination of Standard which, as a matter of law, calls for application of the Instrumentality Rule.

**4. Falsification of Earning Statements and Fraudulent Market Manipulations.**

There is no comment in the Majority Opinions on the undisputed proofs that Standard was issuing to the Deep Rock securityholders false earning statements throughout the major part of the Debtor Corporation's existence and was at the same time, through Byllesby and Company, manipulating market transactions in the Debtor's securities (see our Brief, pp. 224-240). In the face of such a situation, it is doubly unjust for Standard to now receive a claim by means of which it eliminates the investment of the public securityholders whom it misled and defrauded.

**5. Standard's Claim Is a Capital Investment.**

No comment is made in the Majority Opinions of the fact that throughout the history of the open account between Standard and Deep Rock, the Record clearly shows that Standard treated that account as a capital investment, rather than a debt of the Debtor Corporation (See our Brief, pp. 240-250). In overlooking this factor, this Honorable Court ignores the very pointed warning enunciated in the case of *Newton National Bank v. Newbegin*, 74 Fed. 135 (C. C. A. 8, 1896), wherein Mr. Justice Thayer says:

> "When a corporation becomes bankrupt the temptation to lay aside the garb of a stockholder on one pretense or another and assume the role of a creditor is very strong and all attempts of that kind should be viewed with suspicion."

**B. The majority opinions overlook the invalidity of specific items included in the Standard claim.**

In the course of our original brief, we undertook to show that regardless of the application of the Instrumentality Rule, the Standard Claim is unsustainable because the open account includes approximately $20,000,000 of wrongful charges. An elimination of these wrongful charges, or even

one-half of them, would eliminate the entire Standard claim (see our Brief, pp. 266-311). The opinions of the Honorable Members of the Majority make no mention of the issue so presented.

The refusal of the Majority Opinions to pass upon the issue so presented is particularly unwarranted in the light of the nature of the Standard claim. It is undisputed that all of the items of the claim were imposed by common directors. Under such circumstances, the law is clearly established by decisions of the United States Supreme Court, as well as by this Court, that the transactions and charges so imposed are presumptively fraudulent. See *Corsicanna National Bank v. Johnson,* 251 U. S. 68, 64 L. Ed. 141, and other cases cited in our original Brief, at pp. 268-271. The *Majority Members of this Court in the instant case allow a claim that is presumptively fraudulent and invalid, while, at the same time, they refuse to adjudicate whether or not the claim is actually a valid one.* The incongruity of such a decision can only be explained upon the assumption that the Honorable Members of the Majority have overlooked the necessary implications of their decision.

Moreover, the claim being presumptively a fraudulent one, the burden is upon Standard to prove the entire fairness of each of the transactions which are covered by the claim (see our Brief, pp. 271-279). The decisions of this Court require rigid scrutiny of such a claim. *Forbush Co. v. Bartley,* 78 Fed. (2) 805 (C. C. A. 10, 1935); and *Consolidated American Royalty Corporation v. Taliaferro,* 78 Fed. (2) 802 (C. C. A. 10, 1935).

Within the principles of those cases, Standard cannot be deemed to have met that burden of proof. It is undisputed that no audit was made of the transactions between Deep Rock and Standard. The Trustee of the Debtor Corporation, through his attorney, stated in open court (II-525):

> "There has never been an independent audit made of the Standard claim."

Mr. Shinners, Vice-President of Byllesby & Company, and Chairman of the Reorganization Committee, likewise admitted:

> "We never had an audit made of the Standard claim" (II-437).

Practically the only justification attempted for the Standard claim is the fact that the books of both Standard and Deep Rock reflect the same credit and debit entries. Where two corporations and their books are controlled by a single management such as in the instant case, the fact of such agreement is proof of nothing whatsoever (see our Brief, pp. 272-275). To permit, as this Court has, the compromise allowance of such claim is to relieve claimant of the very rigid scrutiny that the law imposes upon his claim. *To allow this claim by compromise allowance under the circumstances herein disclosed is to release Standard from the obligation of overcoming the presumption of fraud which the law attaches to its dealings with Deep Rock. By such compromise, Standard is released from its legal obligation of proving under rigid judicial scrutiny the utter fairness of the transactions reflected by the open account between Standard and Deep Rock.*

## III.

### THE MAJORITY OPINIONS OVERLOOK SALIENT UNDISPUTED FACTS AND AUTHORITATIVE DECISIONS OF LAW REQUIRING REJECTION OF THE PLAN OF REORGANIZATION

Here, again, we shall not attempt to reargue the unfairness of the Plan of Reorganization and the circumstances of its offer and acceptance (See our Brief, pp. 368-474). We desire merely to point out to this Honorable Court, that its finding of fairness of the Plan is predicated upon the existence of a valid claim by Standard in the amount of $5,000,000. Yet, the Honorable Members of the Majority, although justifying the Plan by reason of the existence of a valid claim by Standard, nevertheless refuse to adjudicate that Standard's claim is actually a valid one.

The imposition of a Plan of Reorganization under such circumstances is not "fair and equitable" within the requirements of Section 77-B. That Act seeks to impose the fullest measure of safeguards in the protection of minority interests so that they may not be deprived of their property, except under circumstances of absolute fairness and equality. *To deprive an entire class of securityholders of their preferred position without even a legal adjudication that they have no rights, is to destroy the safeguards of fairness and equity which the 77-B Act imposes.* Such an elimination of the rights of preferred shareholders deprives them of their day in court. A deprivation of property rights so basic and fundamental could never have been contemplated by the enactment of this Act, within the constitutional limitations of due process of law. The decision of this Court, we submit, is in contravention of the basic requirements of fairness contemplated by the words "fair and equitable," as interpreted by the following decisions of the United States Supreme Court:

*Louisville Trust Co. v. Louisville N. A. & C. R. Co.*, 174 U. S. 674, 43 L. E. 1130 (1899);
*Northern Pac. Railway Co. v. Boyd*, 228 U. S. 482, 57 L. Ed. 931 (1913);
*National Surety Co. v. Coriell*, 289 U. S. 426, 77 L. Ed. 1300 (1933);
*First National Bank v. Flershem*, 290 U. S. 504, 78 L. Ed. 465 (1934).

The further basic premise upon which the Plan of Reorganization was confirmed is the propriety of the valuation adopted by the District Court. The opinion of Mr. Justice Phillips infers that because a finding of value is a finding of fact by the District Court, that it is therefore not subject to review. *That an appraisal may be subjected to appellate review when based upon erroneous premises of law or when unsupported by the facts has been clearly established by decisions of the United States Supreme Court.* See *National Surety Co. v. Coriell, supra; First National Bank v. Fler-*

*shem, supra.* As set forth in those decisions, an appraisal by which the rights of securityholders are eliminated should be clearly disinterested and trustworthy and should take into account the *earnings* of the corporation as a going concern.

In the instant case, we have set forth how utterly untrustworthy was the appraisal which the District Court accepted (See our Brief, pp. 375-400). It is completely at variance and grossly contradictory to the appraisals made by the same persons on former occasions and to the book values on which the public were asked to rely in its acquisition of the securities of the Debtor Corporation. *No comment is made in the Majority Opinions of the prior appraisal made by the self same Trustee in which he placed a valuation on the Debtor's fixed assets of approximately $4,000,000 more than he now claims. Moreover, the Trustee himself testified that the fixed assets were now worth from three to four million dollars more than at the time of his former appraisal* (See our Brief, pp. 390-392). *Such a gross contradiction of more than seven million dollars in the appraisal of the same property by the same person cannot, in fairness, stand unexplained; yet, that is exactly the situation in the instant case.* That discrepancy of itself represents the difference between a legal right to eliminate the preferred shareholders from sharing in the assets of the Debtor Corporation and a requirement that they be accorded the full measure of the value of their equity in those assets.

Moreover, the opinion of Mr. Justice Phillips erroneously asserts that the Trustee's appraisal took into account the going concern value of the Debtor Corporation. That conclusion is clearly contradicted by the cross-examination of the only witnesses who appeared in support of the fairness of the appraisal. Both of these witnesses admitted that the appraisal gave no consideration whatever to the earnings of the Debtor Corporation (II-501, 504, 528-9, also our Brief, pp. 383-389). The finding of Mr. Justice Phillips is further contradicted by the admission of District Judge himself, when at the close of the proofs he stated:

> *"There is no doubt you have a low appraisement. It is a very conservative appraisement, because your testimony established you didn't pay any attention to the earning power"* (II-566).

Yet, that is the very appraisal which the District Judge accepted and his acceptance is now confirmed by this Court. Such an appraisal does not present an issue of fact as to the error of the District Court but is rather an issue of law upon which this Court must pass. The law in this respect is clear that an appraisal which does not take into account earning power must be rejected as unfair and unsound (See our Brief, pp. 369-370, 387-388).

In the course of our original brief, we have gone rather fully into the circumstances of the unfairness of the offer and acceptance of the Plan of Reorganization (See our Brief, pp. 426-474). We shall make no attempt to reargue those contentions. We desire merely to point out that the opinions of the Honorable Majority Members make no comment on the indisputable facts in that connection which we have presented to this Court.

The offer and acceptance of the Plan of Reorganization has, throughout, been controlled by the Standard interests. The employes of the Debtor Corporation as well as the Reorganization Committee have demonstrated beyond question or doubt that their root and origin as well as their firm allegiance was in the interests of Standard and not as disinterested representatives of the public securityholders of the Debtor Corporation. The largest single depositor of preferred stock with the Reorganization Committee, holding 6,000 shares, is an admittedly wholly controlled subsidiary of Byllesby and Company (II-580-584, 715). The interests who seek to put through the Amended Plan of Reorganization are the same interests who attempted to put through the first plan of reorganization. They had substantially the same majority representation in behalf of the first plan as they have now for the Amended Plan.

Only the vigorous opposition of Appellants prevented the consummation of their aim to wipe out entirely the preferred shareholders of the Debtor Corporation, as contained in the first plan of reorganization. Under such circumstances, this Court should not shed lightly its burden and duty as a defender of Justice to adjudge for itself the fairness and action of the proponents of the Amended Plan of Reorganization.

## CONCLUSION

Petitioners respectfully request this Honorable Court to grant this Petition for Re-Hearing of the above entitled cause.

SEMPLINER, DEWEY, STANTON & HONIGMAN, of Detroit, Michigan,
MILSTEN & MILSTEN, of Tulsa, Oklahoma,

By JASON L. HONIGMAN

*Attorneys for the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, Appellants and Petitioners.*

State of Michigan,
County of Wayne—ss.

Before me, a Notary Public in and for said State and County, personally appeared Jason L. Honigman, to me known to be the person who, on this 21st day of May, 1938, subscribed to the foregoing Petition for Rehearing and who made oath that he prepared the same and that said Petition for Rehearing is presented by him in good faith for matters deemed by him to merit a rehearing of the above-entitled cause and not for the purpose of delay or any other vexatious or dilatory considerations.

Martha Cramer
Notary Public, Wayne County, Michigan.
My commission expires April 14, 1941.

FILED
MAY 25 1938
Albert Drego
CLERK

(Order Denying Petition for Rehearing.)

Twenty-sixth Day, April Term, Monday, June 6th, A. D. 1938. Before Honorable Orie L. Phillips, Honorable Sam G. Bratton and Honorable Robert L. Williams, Circuit Judges.

This cause came on to be heard on the petition of appellants for a rehearing herein and was submitted to the court.

On consideration whereof, it is now here ordered by the court that the said petition be and the same is hereby denied.

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(On June 17, 1938, the mandate of the United States Circuit Court of Appeals, in accordance with the opinion and decree of said court, was issued to the United States District Court.)

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(Clerk's Certificate.)

United States Circuit Court of Appeals, Tenth Circuit.

I, Albert Trego, Clerk of the United States Circuit Court of Appeals for the Tenth Circuit, do hereby certify that the foregoing Volume I, pages 1 to 528, inclusive, and the following Volume II, pages 1 to 879, inclusive, and the following Volume III, Exhibits, pages 1 to 148, inclusive, contain a full, true and complete copy of the transcript of the record from the District Court of the United States for the Northern District of Oklahoma, and full, true and complete copies of certain pleadings, record entries and proceedings, including the opinion, (except full captions, titles and endorsements omitted in pursuance of the rules of the Supreme Court of the United States) had and filed in the United States Circuit Court of Appeals for the Tenth Circuit in a certain cause in said United States Circuit Court of Appeals, No. 1545, wherein John M. Taylor et al. were appellants and Standard Gas and Electric Company et al. were appellees, as full, true and complete as

the originals of the same remain on file and of record in my office.

(Seal, U. S. Circuit Court of Appeals, Tenth Circuit)

In Testimony Whereof, I hereunto subscribe my name and affix the seal of the United States Circuit Court of Appeals for the Tenth Circuit, at my office in Denver, Colorado, this 5th day of August, A. D. 1938.

ALBERT TREGO,
Clerk of the United States Circuit Court of Appeals, Tenth Circuit.

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SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 10, 1938

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.